

Juvenile Justice Alternative Project (2010-2014)

Evaluation Report (30 Jan 2015)

“Without the intervention of UNICEF there would not be any changes in the system of the Juvenile Justice in Tajikistan. UNICEF plays a crucial role.”

response of a professional to a confidential questionnaire
prepared and applied by the Evaluation Team

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Glossary and Acronyms

Centre for Additional Education: facilities under the Ministry of Education and Science that offer free vocational and other classes, such as music and art, to students during the school year, when they are not attending primary or secondary school.

Child and Youth Centre: previous name of Centres for Additional Education, also previously known as Out of School Curriculum Centres

Child Rights Centre: a national NGO

Child Rights Departments/Units: small bodies attached to local commissions on child rights whose mandate includes the referral of children and families at risk to appropriate services, support for the social reintegration of children, monitoring the treatment of children in their homes, schools and residential institutions, and activities designed to raise awareness of child rights.

Commission on Child Rights: on the national level, a body composed of representatives of the Ministries of Justice, Interior, Education, Health and Social Protection and Labour and Migration, Council of Justice, Statistics Agency and Committee on Women and Family Affairs; on the district level, a body composed of representatives of the Office of the Mayor, Departments of Education and Science, Health and Social Protection, and other bodies. Both were formerly known as Commissions on Minors.

Community-based prevention centre: the term used in this document for the package of staff and services designed to prevent offending by children at risk and re-offending by offenders diverted from the justice/correctional system based in a non-residential facility (often the Centres for Additional Education), previously called “JJAPs”

Criminal investigators: members of the Ministry of Interior’s Investigative Board responsible for investigating crimes, under the supervision of prosecutors.

Juvenile prison: a correctional facility for convicted offenders 14 to 18 years of age, formally known as the juvenile “colony” or “educational institution RC3/12, operated by the Main Division of Execution of Criminal Sentences of the Ministry of Justice. It also contains convicted juveniles who reach the age of 18 while serving a sentence.¹

Juvenile police: see prevention police

Commission on Child Rights under the government of the Republic of Tajikistan: also referred to as the Commission on Child Rights

Ombudsman: formally known as the Commissioner for Human Rights of the Republic of Tajikistan, established in 2008.

¹ They may be allowed to remain until reaching 20 years of age.

Prevention police: officers of the Service for Prevention of Delinquency Amongst Youth and Minors, which in 2009 replaced the Inspection on Minors. Activities include registering and monitoring the behaviour of children involved in “anti-social” behaviour, monitoring convicted juveniles given suspended sentences, and encouraging respect for the law by talks in schools and similar activities.

Reception and Referral Centres: residential facilities operated by the police where children aged 3 to 18 years may be placed for up to 30 days without a court order. There are two, one in the capital and the other in Khujand, the second largest city. Children confined in these facilities include street children, runaways, lost children and children detained in nocturnal raids on markets. (Some earlier reports in English refer to these as “Temporary Isolation Centres.”)

Special School: a boarding school operated by the Ministry of Education for children involved in anti-social behaviour, children involved in crime while too young to be prosecuted, as well as children placed by parents for other reasons.

Special Vocational School: a closed facility for boys 14 to 18 years under the Ministry of Education for boys who are convicted of minor or medium offences but “released from punishment” under Art.90 of the Criminal Code; some children who are not offenders are placed in the schools by their parents.

ABA ROLI: American Bar Association Rule of Law Initiative

CAE: Centres for Additional Education

CRC: Convention on the Rights of the Child

NGO: Non-governmental Organisation

NPA: National Plan of Action For Juvenile Justice System Reform 2010-2015

SDC: Swiss Agency for Development and Cooperation

UNDP: United Nations Development Programme

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Executive Summary

The present Evaluation Report covers the *Juvenile Justice Alternatives Project*, a 2.2 million USD UNICEF project funded by the Swiss Agency for Development and Cooperation that began in 2010 and ended in September 2014. The objectives of the project were to bring the juvenile justice system of Tajikistan into compliance with international norms and standards, to reduce the institutionalisation of children, and to make “juvenile justice alternative practices” operational in 32 districts. The primary beneficiaries were defined as children between the ages of 10 and 18 “identified as at risk of offending” or who had committed a criminal act. The project was based largely on the National Plan of Action For Juvenile Justice System Reform 2010-2015, adopted in December 2009. The main governmental counterparts were the Commission on Child Rights, the Ministries of Justice, of the Interior and of Education, the Council of Justice, the Office of the Prosecutor General and the Commissioner for Human Rights.

The Evaluation was prepared for UNICEF and the Swiss Development and Cooperation Agency, with the understanding that they will decide what to share with the counterparts that participated in implementation of the project. The first objective of the Evaluation is to comply with UNICEF’s contractual obligation to present a final report on implementation of the project to the donor. Other objectives were to document the positive results of the project as well as the objectives that were not met, and assess to what extent the reasons some objectives were not met or only partially met (e.g. flaws in the project design, poor management by UNICEF, insufficient cooperation by counterparts, or unanticipated external factors). To this end, the Report addresses more than 20 Evaluation Questions concerning the relevance, effectiveness, efficiency, impact and sustainability of Project. The objectives also included making recommendations to UNICEF as to what if anything should be done to consolidate the achievements of the project, whether and under what conditions support for specific project activities should continue, and whether UNICEF should take advantage of the experience gained and work done during the project to address other issues related to justice for children.

The evaluation was done by a team of three experts: an international expert who was the team leader, a national lawyer, and a national psychologist who was responsible for a survey of the experiences of children.² The survey covered 34 children having four kinds of experiences with juvenile justice, namely, registration by the police, placement in the special school, confinement in the juvenile prison, and referral to one of two community-based prevention centres. In addition to the survey, the evaluation report is based on an analysis of project documents, a two-week mission during which 39 officials and other informants were interviewed and a confidential questionnaire/test administered to trainers, professionals who participated in project training events and a control group of untrained professionals. Preparation of the evaluation began in September 2014; the mission took place from 6 to 20 October; the survey of children

² The team leader and national legal expert are independent human rights consultants; the psychologist is associated with Tajik National University.

and parents was completed in November and the draft Evaluation Report was submitted to UNICEF on 21 November.

The main findings are:

The project did not reduce offending by juveniles on the national level, the number of juveniles detained before trial, the number of prisoners in the juvenile prison colony nor the number of children in the special school.³

The number of community-based centres opened was far fewer than the number planned, and several of those opened were later closed. Reasons that contributed to this include flaws in the project design, failure to amend the relevant legislation, ignorance or disinterest on the part of judges and prosecutors, poor motivation on the part of staff of some of the centres and neglect of responsibility to coordinate and monitor by the Commission on Child Rights and Ministry of Education and Science.

In response to the difficulties that affected implementation of this project component, the following measures were taken: reduction of the number of centres planned (thus correcting a flaw in the project design), closure of centres with a small caseload, increased training of judges, prosecutors and the staff of centres, and limitation of the range of services provided. Most of these measures were appropriate, but limiting the range of services limits the contribution that the centres can be expected to make to prevention.⁴

Data on the caseload of community-based prevention centres is incomplete, unreliable, and is not disaggregated by the age of the children referred nor the reason for their referral. Similarly, data on offending is not disaggregated by district in the regions where most centres were established (Sughd and Khatlon), and no data on reoffending was found. These factors made it impossible to properly evaluate some important aspects of the implementation and impact of the project.

On the positive side, the survey of children's experiences showed that the services provided by community-based centres for prevention of offending and

³ The goal of the project was to "To support the development of a child rights compliant juvenile justice system in Tajikistan that prevents offending and re-offending among children under-18....". The second Key Result/Outcome was defined as "reduce the use of institutionalisation of children in conflict with the law by 20 per cent in 32 districts." Data on institutionalisation of children is not disaggregated by district, but 32 districts are almost half the districts in the country (65), so a reduction of institutionalisation in these districts would presumably be reflected in national statistics.

⁴ The Evaluation Team does not consider that each centre should have a psychologist and lawyer on the staff on a full-time basis, but should have both on their staff on a part-time basis (unless in some centres the demand for such services is greater). They should be fully integrated into an interdisciplinary team that provides a wide range of services, including legal advice and assistance and psychological support and assistance as needed, and participate in the screening and development of individual plans for each offender and each child referred to a centre for 'anti-social behaviour' or similar reasons.

re-offending were beneficial for children who received them. The single centre that was put under the management of the local authorities in 2010, in Khujand, enjoys their full support and continues to offer legal and psychological services in addition to social work, vocational training and remedial education.⁵ The local authorities report a significant decrease in offending since 2010.

The intensive use of respected and knowledgeable international experts for training and advocacy, combined with study visits and participation in relevant activities organised by the UNICEF Regional Office, and the selection and training of competent and highly motivated national experts, both governmental and non-governmental, contributed to the success of capacity-building, especially in the judiciary and office of the Ombudsman.

The training of judges and appointment of specific judges to handle cases involving children is having a positive impact on the way cases involving juvenile offenders (and child victims) are handled and resolved. Training had a greater impact on some professionals than others, however; those less affected include the employees of the Ministries of Interior and Education. The underlying cause seems to be poor motivation and institutional culture that places a low value on child rights.

The new Child Rights Department in the office of the Ombudsman monitors closed facilities for juveniles. This has had a positive impact, although much remains to be done to bring conditions, treatment and services into compliance with international standards. The Juvenile Justice and Child Rights Department in the Ministry of Justice has begun to facilitate inter-ministerial coordination on issues concerning juvenile justice, although much more needs to be done with regard to legal and institutional reform, the strengthening of inter-sectoral cooperation and the collection and analysis of data.

The project has had some benefits for children beyond juvenile justice reform. The training of judges and appointment of judges to handle cases involving children, for example, has benefits for children who are victims of crime and children involved in cases involving family law. The child-friendly facilities established in four courts also benefit child victims and witnesses. Most of the complaints about violations of the rights of children handled by the child rights department of the Ombudsman concern access to education or compliance with court orders in family law cases.

In short, the project failed to meet most of its goals. There are many reasons for this, including the project design, a lack of balance in the way the project goals were interpreted in practice, failure to appreciate the difficulties in taking pilot projects to scale and transferring responsibility for them to the State, poor decisions regarding the choice of partners for the implementation a key component of the project, and a weak

⁵ Legal services are provided by the NGO Sarchashma, which is located in the same building as the Centre.

sense of ownership on the part of the government as a whole. Despite these difficulties and the failure to meet the main goals of the project, it has had some valuable results. Children who have attended community-based centres for the prevention of offending and reoffending see the experience as positive, the centre in one large city seems to have a positive impact on offending, many judges, prosecutors and other authorities have acquired a good understanding and commitment to international principles concerning juvenile justice, and specialised judges have recently been appointed in a large number of trial courts. Some of the consequences of the project – such as the appointment of specialised judges, the creation of child-sensitive facilities in some courts and the creation of a specialised department in the office of the Ombudsman – are having a positive impact on children’s access to justice that go beyond the aims of the project.

Recommendations made by the Evaluation Team include:

1. UNICEF and its counterparts should work to consolidate the project’s achievements, to fill gaps where achievements have been limited, and to build on what has been accomplished while expanding its work to other dimensions of justice for children, including making procedures for child victims of crime more child-friendly and effective. [High priority]
2. The collection and management of data concerning juvenile justice, child victims of crime and other issues concerning children’s access to justice should be improved. [High priority]
3. Efforts should be made to preserve the positive results in community-based prevention, while taking a more balanced approach that includes centre-based prevention on the Khujand model⁶ in cities or districts having the high rates of offending, and strengthening the capacity of Child Rights Units/Departments to assist children at risk and to support the social reintegration of juvenile offenders. [High priority]
4. Schools should be made more child-friendly, in particular by eliminating practices that discriminate against students who are poor, disadvantaged or have learning or behavioural problems. [High priority]
5. Consideration should be given to expanding the small team of criminal investigators specialised in crimes involving children to the provincial level, and eventually to districts having a high number of such crimes. [High priority]
6. UNICEF should continue to support the Child Rights Department of the Ombudman’s Office. [High priority]

⁶ This refers to the interdisciplinary approach used, and not the provision of shelter to children referred to the Centre from other districts, which was not part of the original approach.

7. UNICEF should support initiatives of other international actors to strengthen legal assistance programmes, and in particular to ensure that such efforts give appropriate attention to the special needs of children. [High priority]
8. The incorporation of social work services into the Centres for Additional Education should be supported only if the Ministry of Education takes measures to eliminate the administrative obstacles that affected implementation of the project and to ensure transparency and accountability. [Secondary priority]
9. Inter-ministerial coordination on juvenile justice and justice for children should be strengthened, and technical support provided for law reform, institutional reform, and the development of protocols and other tools for inter-sectoral cooperation in casework. [Secondary priority]
10. A needs assessment of the social work sector should be done to identifying a feasible approach to develop the capacity to train professional social workers, including social workers with training in child development and the skills necessary to assist children with special needs. [Secondary priority]
11. A situation analysis/needs assessment should be undertaken of role of psychologists with regard to justice for children, including their present roles, the capacity Tajik psychologists to assume the roles that their profession should play in ensuring justice for children, and any obstacles that affect their ability to do so. [Secondary priority]

I. Context

Tajikistan has a population of 8 million, including approximately 2 million children between 14 and 18 years of age.⁷ Nearly all the population is literate, and the primary school attendance rate and lower secondary school enrolment rate are over 97%.⁸ In 2012 the per capita GNI was \$860, or \$2,220 PPP.⁹

Tajikistan became independent in 1991. The current administration has been in power since 1994.

Juvenile justice is based mainly on the Criminal Code, the Code of Criminal Procedure and Code on the Execution of Sentences. The new Codes adopted since independence have brought juvenile justice into greater harmony with international standards. Only children 14 years of age or older may be prosecuted. The maximum prison sentence that may be imposed on a convicted juvenile is 7 years if he or she is 14 or 15 years of age, and 10 years if he or she is 16 or 17 years of age; probation and educational measures may be imposed on juveniles convicted of offences of minor or medium gravity, and courts are obliged to consider imposing a non-custodial sentence, suspended sentence or educational measures before imposing a prison sentence. Only a judge may order detention before trial and, in principle, only those accused of a serious offence may be detained. In principle juveniles may only be questioned in the presence of an attorney, and may not be questioned for more than 4 hours per day, 2 hours at a time. Cases of first offenders charged with a minor offence may be diverted. Some provisions of the new Codes are not in harmony with international standards, however. The authorisation of solitary confinement as a disciplinary measure is one example.

The institutional framework for juvenile justice is incomplete. There are no juvenile courts.¹⁰ There is one juvenile prison colony for boys, and only one pre-trial detention centre has a special unit for accused boys. Accused girls given a detention order and convicted girls given a prison sentence are confined in women's facilities. The police have a special department responsible for the prevention of offending by juveniles. (see Glossary) There also is a Special School, where children at risk of offending and offenders too young to be prosecuted may be placed, and a Special Vocational School for adolescents given alternative sentences.¹¹ (see Glossary) Both are for boys only. Non-compliance with legal norms is a persistent problem. Examples include failure to provide juvenile suspects with prompt access to a lawyer, the use of verbal and physical violence to obtain confessions from suspects, the issuance of detention orders

⁷ www.unicef.org/infobycountry/Tajikistan_statistics.html and The World Factbook, consulted 10 Dec.2014

⁸ www.unicef.org/infobycountry/Tajikistan_statistics.html, consulted 10 Dec.2014

⁹ Ibid

¹⁰ Specific judges have been assigned to juvenile cases in some courts, as indicated below.

¹¹ lit: educational measures

for minor offences and illegal placement of non-offenders in the closed Special Vocational School.

From 1992 (the year after independence) to 1996 the number of reported offences by juveniles averaged 1,089 per year.¹² This fell sharply from 1997 to 2001, to an average of 522 offences per year, and increased to an average of 608 during the years 2002 to 2007. It was particularly low during the two years before the project: 467 offences in 2008 and 415 in 2009. Some 70% of reported offences are theft.¹³ Some 4% of offences committed by persons under the age of 18 are committed by girls.¹⁴

Tajikistan became a State Party to the Convention on the Rights of the Child in 1993. Its' second report to the Committee on the Rights of the Child was examined by the Committee in 2010. The Committee recommended that the measures be taken to ensure that prison sentences are imposed on juveniles only as a last resort and for the shortest possible period of time, that all children in detention are separated from adult detainees, and that accused juveniles have effective access to legal assistance and defence.¹⁵ It also recommended that juvenile justice personnel be given specialised training, and that the government seek technical assistance regarding juvenile justice from UNICEF.¹⁶

In December 2009 the government adopted a National Plan of Action For Juvenile Justice System Reform 2010-2015. (See below) The Evaluation Team was not informed of any analogous plans having direct relevance for this project adopted by individual ministries or other national counterparts.¹⁷

¹² TransMonee database, 2014, consulted 10 Dec.2014

¹³ See e.g. Update on Juvenile Justice Reform in Tajikistan, presentation by B. Khudoyorov, Minister of Justice, Central Asian Forum on Child Protection, Ashgabat, 2011 (data for 2010)

¹⁴ Ibid

¹⁵ UN doc. CRC/C/TJK/CO/2, para.73

¹⁶ Ibid

¹⁷ The National Strategy of Educational Development adopted in 2012 has limited relevance, as described below.

II. The Object of the Evaluation

1. Origins of the 2010-2014 Juvenile Justice Alternative Project

The first report of Tajikistan on implementation of the Convention on the Rights of the Child was examined by the Committee on the Rights of the Child in 2000. The Committee expressed concern “at the poor quality of the administration of justice for juvenile offenders and the lack of a juvenile justice system” and recommended that the government take all measures “to fully integrate into its legislation and practice the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards”, with the assistance of UNICEF and other competent UN agencies.¹⁸

The Committee’s comment and recommendation triggered a process of juvenile justice reform. In 2000 UNICEF commissioned a study on the compatibility of national law with international standards on juvenile justice, and began to support a NGO project that provided legal assistance to juveniles.¹⁹ In 2001, an inter-ministerial Commission on Child Rights was established. In 2003 the Commission established an Expert Group on Juvenile Justice, which prepared a report containing some 50 recommendations.²⁰ The report was prepared with technical assistance of the Children’s Legal Centre, UK, which also prepared a proposal to create a community-based diversion centre.²¹ The first such centre, operated by the NGO *Nasli Navras*, was opened in 2004 in Sino District, with UNICEF support.²² A second centre also was opened in Firdavsi District, Dushanbe. In 2006, an assessment of juvenile justice in Tajikistan was carried out on behalf of the UNICEF Regional Office for CEE-CIS. The report made recommendations, many of which were adopted by a roundtable on juvenile justice held in December 2006.²³

In 2008, an assessment of the community-based centres was carried out.²⁴ It concluded that they provided quality services to children and their families, that less than 3% of the children referred to the centres had “reoffended”, and that offending in the districts of Dushanbe where the centres were functioning fell 42% from 2006 to

¹⁸ CRC/C/15, Add. 136, para.52-53

¹⁹ *Thematic Evaluation of UNICEF’s Contribution to Juvenile Justice System Reform in Montenegro, Romania, Serbia and Tajikistan*, UNICEF, Geneva, 2007, p.122

²⁰ *Children who are in Conflict with the Law: Report of the Expert Group*. The report was completed late in 2003 and approved early in 2004. Thematic Evaluation, supra, p.123 (The Working Group ceased to function after publishing this report.)

²¹ Thematic Evaluation, supra, p.123

²² Ibid

²³ Thematic Evaluation, p.124. Participants in the roundtable included all the members of the Commission on Child Rights, national NGOs and the local authorities of the districts where the (by then) two community-based centers were located.

²⁴ The evaluation was prepared by consultants associated with Children’s Legal Centre, UK, which designed and supported the community-based ‘alternative’ centres.

2007.²⁵ The report indicated that 250 children had “participated” in the centres from 2004 to 2008, but there was no disaggregation by age, sex or reason for referral or admission. The number of reoffenders was based on anecdotal evidence. In 2009, the process of transferring responsibility for existing programmes to the government began. Responsibility for four of the existing centres was transferred Child and Youth Centres under the Ministry of Education.

In October 2009, the Government adopted a National Plan of Action on Juvenile Justice (“NPA”) for the period 2010-2015.²⁶ It had four components:

- Improved coordination and monitoring of juvenile justice;
- the creation of a child-sensitive, child-rights compliant juvenile justice system in law and in practice;
- the creation of effective rehabilitation and reintegration programmes in the community, and
- the “development of effective welfare and rehabilitation programmes in closed detention centres”.

Concrete aims included:

- the expansion of the number of community-based programmes to 32 by 2012; their evaluation in 2012, and expansion to the rest of the country by 2015;
- expanding the kind of services provided by the Temporary Isolation Centre in Dushanbe to include support for children not confined in it
- amendment of the Code of Criminal Procedure and the Criminal Code to impose on prosecutors and judges a duty to consider diversion and the imposition of non-custodial measures, respectively, in all juvenile cases

2. The Juvenile Justice Alternative Project 2010-2014

In 2010, UNICEF received a USD 2.2 million, four-year grant from the Swiss Agency for Development and Cooperation for a project on juvenile justice.²⁷ The key results the project was designed to achieve – in effect project components - were defined as:

A national policy ensures that the juvenile justice system in Tajikistan complies with international standards and norms;

Referral organs such as the Courts, Prosecution, Interior [i.e. police] Departments, Child Rights Departments reduce the institutionalization of children by 20 per cent, and

In 32 districts, juvenile justice alternative practices including preventive programmes, enshrined as part of the juvenile justice system, are used by the

²⁵ Promoting Children’s Rights in the Juvenile Justice System of the Republic of Tajikistan: Evaluation of the Juvenile Justice Alternatives Projects, Commission on Child Rights, Dushanbe, 2008, p.17

²⁶ SIDA Report, supra, p.9

²⁷ The original duration of the project was from January 2010 to March 2014. Juvenile Justice Alternative Project Proposal, 2009, p.2

Inspection of Minors, Police, Prosecutors, Courts and Child Rights Departments.²⁸

The primary beneficiaries of the project were defined as children between the ages of 10 and 18 “identified as at risk of offending” or who have committed a criminal act, whether or not they are old enough to be prosecuted for it.²⁹

Some differences between these three aims and the four components of the National Plan of Action adopted by the government a month earlier are worth noting:

The first aim of the project is similar to the second component of the NPA, i.e., the creation of a child-sensitive, child-rights compliant juvenile justice system in law and in practice.³⁰ The NPA component regarding coordination and monitoring of the juvenile justice system was subsumed into this component of the project.³¹

The NPA component on the creation of effective rehabilitation and reintegration programmes in the community was, in effect, transformed into the aim of reducing “the institutionalization of children” by 20 per cent.³²

The NPA component “development of effective welfare and rehabilitation programmes in closed detention centres” was replaced by the aim of ensuring the use of “juvenile justice alternative practices including preventive programmes” by police, prosecutors, courts and child rights departments throughout the country.³³

The project identified six targets. One of them was basically identical to the broadest ‘key result’, i.e. bringing the juvenile justice system into compliance with international standards. Three concerned diversion, including the establishment of a nation-wide network of diversion programmes based on centres under the Ministry of Education and administered by local authorities.³⁴ The other two targets were the establishment of “early intervention” programmes in schools throughout the country, and offering non-residential services in two centres for the temporary detention of children operated by the police.³⁵ While the NPA called for “effective rehabilitation and reintegration programmes in the community” as well as better rehabilitation programmes in the

²⁸ Ibid, p.1 (There are 65 districts in Tajikistan.)

²⁹ Ibid

³⁰ The language of the NPA, especially “in law and practice”, is clearer; no policy, as such, can “ensure” that an entire system is compliant with international standards.

³¹ This, although effective coordination and monitoring actually a means to achieving a child-rights compliant system, not an indicator that a system is child-rights compliant.

³² The Second Progress Report (2010) revised this to “10 to 20 per cent”. p.4

³³ Logframe, Key result/outcomes 3

³⁴ At the time, these centres were known as Child and Youth Education Centres; they are now called Centres for Alternative Education.

³⁵ These are a legacy of the Soviet period called “Reception and Referral Centres”

juvenile prison, the project called for “juvenile justice alternative practices including preventive programmes” and reduction of the number of children “institutionalized.”

The strategy described by the project proposal recognized the NPA for Juvenile Justice Reform as the foundation for the project, and envisaged building the capacity of lead ministries and agencies; training of judges, local authorities and others; reliance on other initiatives that aimed to strengthen social work; and cooperation with civil society organisations while strengthening their cooperation with State bodies.³⁶ The Ministry of Education was identified as a “key partner” that would play a “key role”, monitor implementation and receive “major support”.³⁷ The Commission on Child Rights was expected to adopt decrees authorizing implementation measures.³⁸ Use of the Child and Youth Education Centres (now ‘Centres for Additional Education’) as sites for the diversion programme and giving the local authorities responsibility for “monitoring” was seen as “assuring Government’s ownership ... from the outset.”³⁹ (The pilot diversion centres had been operated by NGOs with UNICEF funding.)

The project proposal identified 8 indicators: that policies, procedures and mechanisms be compliant with international standards; that legislation be ‘restorative’; the number of schools having preventive programmes; the services provided by the Temporary Isolation Centres; and four indicators concerning diversion.⁴⁰

The last part of the project proposal, on sustainability, reinforces the impression that the creation of a functioning network of diversion centres was the single most important aim of the project. None of the other key results are mentioned, except in so far as the expansion of the network of centres is described as the way to make the juvenile justice system compliant with international norms and to reduce offending and reoffending.⁴¹ The community-based centres established under the Juvenile Justice Alternative Project came be called “JJAPs”.⁴²

The emphasis given to the establishment of community-based centres, combined with ambiguity as to their purpose, was an important characteristic of the project. Diversion, as defined by the Beijing Rules, means “dealing with juvenile offenders without formal trial”, and juvenile offender is defined as a child or young person alleged, or found, to have committed an offence.⁴³ Consequently, diversion, in the strict sense of the term, applies only to children who have been involved in criminal conduct, and are old

³⁶ Juvenile Justice Alternative Project, supra, pp.6-7

³⁷ Ibid, pp.5, 7, 8, 10 (The NPA assigned responsibility for these Centres to the Ministry of Education.)

³⁸ Ibid, p.7

³⁹ Ibid, p.9

⁴⁰ Ibid, p.10 (The four on diversion include one on the number of children in closed institutions.)

⁴¹ Ibid, p.14

⁴² Second Progress Report, December 2010

⁴³ Rules 11 and 2.2(c)

enough to be prosecuted.⁴⁴ However, the primary beneficiaries of the project, as mentioned above, include children at risk of offending and those involved in criminal conduct while too young to be prosecuted. While the NPA called for effective rehabilitation and reintegration programmes in the community”, the project called for “juvenile justice alternative practices including preventive programmes...”. The “number of children in conflict with the law diverted” is identified as an indicator, but the term “in conflict with the law” apparently includes children involved in anti-social behaviour, such as truancy, running away from home and loitering in markets. Indeed, the project document refers to anti-social behaviour as offending, and refers to the rehabilitation of children at risk of offending.⁴⁵ The lack of a clear conceptual distinction between offenders and children at risk, between the prevention of offending and rehabilitation of offenders, and between secondary prevention and diversion, was a flaw in the project design that proved to have significant practical consequences.⁴⁶

The project document identified three risks: failure to amend the Code of Criminal Procedure to expressly recognize the authority of prosecutors to divert; underutilization of diversion due to non-recognition of its effectiveness by the authorities having discretion to divert; and failure of the government to assume responsibility for funding community-based centres.⁴⁷ The first and third risks were considered moderate, and the second, low. The first risk was overcome before the project began: in December 2009, a new Criminal Procedure Code, containing an article expressly authorizing diversion by prosecutors, was adopted.⁴⁸

Overview of implementation 2010-2011

In 2010, the number of community-based centres increased from five to twelve, and in 2011 two more were established.⁴⁹ UNICEF funded the renovation of three centres, two of which were later closed. Computers and other office equipment were purchased for 11 ‘referral bodies’.⁵⁰ Awareness-raising activities were supported, on the national level and in districts where new Centres were opened.

In 2010, 107 “children in conflict with the law” and “more than 100” children at risk were referred to the Centres.⁵¹ In 2011, a total of some 140 children received services.⁵²

⁴⁴ It also does not necessarily involve referral to any programme, but can consist in a mere warning, for example. The Commentary to Beijing Rules 11 states “In many cases, non-intervention would be the best response.”

⁴⁵ p.2

⁴⁶ For example, it prevented the monitoring and assessment of the impact of the centres on offenders.

⁴⁷ Ibid, p.11

⁴⁸ Art.432 The Code came into force in 2010.

⁴⁹ 2010: Bokhtar, Kabodian, Kulyab, Panj, Panjakent, Rasht and Shugnan; 2011: Konibodom and Kurgan-Tube

⁵⁰ Ibid, p.11

⁵¹ Second Implementation Report, supra, p.5

⁵² Fourth Implementation Report, June 2012, p.3

In 2010 and 2011 one of the community-based centres in Dushanbe supported a project for the prevention of offending in 4 secondary schools located in the same district. A council composed of students and teachers was established in each school, and offered “training and socially-beneficial activities” to students with behaviour problems or involved in offending.

By June 2011, 50 staff of Centres and 115 representatives of ‘referral organs’ had been trained.⁵³ Training also was provided to 80 staff of local social assistance units, 15 school teachers, and the staff of the two Ministry of Interior centres for children.

Training was intensified in 2011. Two NGOs were helped to develop training capacity and materials, and in 2011 they provided training to 100 representatives of referral bodies and 120 service providers.⁵⁴ A training needs assessment in 2011 led to the addition of a practical component to the training curriculum for judges.⁵⁵ The law department of Tajik National University established a course on child rights. Ninety police officers (including investigators and ‘juvenile police’), 35 prosecutors, in 15 districts were trained.⁵⁶ In addition, 77 staff of the Centres for Additional Education and Child Rights Units received the training on child psychology, juvenile offending and responses to behavioural problems.⁵⁷

Several important events took place in 2011, within the framework of the project. In May, officials from the Commission on Child Rights, the Parliament, the Ministries of Justice, Interior, Education, Labour and Social Protection, the Council of Justice and the General Prosecutor’s Office participated in the Central Asian Forum on Child Protection, where the main topic was juvenile justice. In October, the first meeting of Child Rights Units and Additional Education Centres from the districts where project activities were being supported. In December, the first national Roundtable on Juvenile Justice System Reform since 2009 was organized by the Commission on Child Rights. The Roundtable endorsed many of the recommendations made by the Mid-Term Evaluation, and in effect was a step towards the preparation of the Revised Project Logframe.

UNICEF sponsored or carried out four assessments in 2011. In addition to the Mid-Term Evaluation of this project, the others were an assessment of juvenile justice by the UNICEF Regional Office, a training needs assessment of juvenile justice

⁵³ The term ‘referral organs’ is used by UNICEF Tajikistan and its partners to refer to the authorities who have discretion to divert or ‘refer’, children to community-based centres, viz., judges, prosecutors, police and child rights departments. Training activities for them were 3 days long, while those for the staff of Centres was 5 days. The 2011 Report also indicates (note 4) that more than half of the judiciary participated in one or more brief in-service training activities.

⁵⁴ Fourth Implementation Report, *supra*, p.11

⁵⁵ The new one-day component consisted of visits to the juvenile prison, a pre-trial detention facility, the special school and a community-based center. Mid-term Evaluation, *supra*, p.14

⁵⁶ Fourth Implementation Report, *supra*, p.12

⁵⁷ *Ibid*, p.13

professionals also carried out by the Regional Office, and an assessment of the Centres for Additional Education, carried out by a consulting firm contracted by UNICEF Tajikistan.⁵⁸

In 2011, the Commissioner for Human Rights and the Child Rights Centre, a national NGO that has been a counterpart in this project, participated in a regional UNICEF project on torture in the context of juvenile justice. A report based on their research was published in 2012.⁵⁹ In September 2012, for the first time in memory, a police officer was convicted and given a prison sentence for the torture of a juvenile, and the victim received a modest compensation.⁶⁰

There was little progress in strengthening data collection, monitoring and coordination mechanisms during 2010. UNICEF, convinced that the Commission on Child Rights lacked the capacity to lead the reform process, began to advocate for the creation of a juvenile justice unit in the Ministry of Justice. The unit was established in March 2011, but did not become fully functional until later.⁶¹

One obstacle that emerged during the first year of the project was the inability of the Ministry of Education to contract social workers and psychologists to staff the Centres selected where community-based prevention/rehabilitation programmes were placed. Another problem that emerged in 2011 was that many of the JJAP centres did not have a functioning Steering Committee.⁶² This was due, in part, to legal issues regarding the independence of judges and prosecutors. In response to advocacy by UNICEF, the Prosecutor General instructed district prosecutors to participate as non-voting members. In practice, this had limited effect.

An assessment of the Centres for Additional Education as sites for hosting the community-based juvenile justice programmes that took place in 2011 also led to the identification of “significant shortcomings... that impede their further development and improvement”. They included:

lack of a legal regulatory framework for CAE activities; inconsistency and irrelevance of the status of CAEs with the requirements of the Typical Regulation on Institutions (Centers) for Additional Education; lack of efficiency in the operational functionality of CAEs (inefficient human resource/staffing policy and unfair distribution of budgetary resources); the absence of centralized information management system on CAEs; unsatisfactory material-technical

⁵⁸ Ibid, Annex VIII

⁵⁹ Torture and Ill-Treatment in Context of Juvenile Justice in Tajikistan: Report on results of legislation and practice review, Child Rights Centre, Dushanbe, 2012

⁶⁰ O'Donnell, Torture and Ill-Treatment in Context of Juvenile Justice: the final report on research in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, and Ukraine, UNICEF, Geneva, 2012, p.14

⁶¹ Fourth Implementation Report, p.14

⁶² The Steering Committees were to be composed of representatives of the police, prosecutors, district court and district department of education and Child Rights Unit.

base of CAEs; and insufficient efforts to improve the professional development of CAE staff.⁶³

A package of legal and budgetary steps designed to redress these issues also was identified.

The 2011 Mid-Term Evaluation

In August 2011 - after 21 months of project implementation - a mid-term evaluation was carried out.⁶⁴ The evaluation found that three of the four centres that had been transferred to Additional Education Centres were “in crisis”, and “only one or two” of the seven established in 2010 “appeared to be functioning well”.⁶⁵ It also concluded that the number of children admitted to the centres was only a fraction of the caseload envisaged, less than two children per centre per month in 2008, and less than one child per centre per month during 2009 and 2010.⁶⁶ Data on the reasons for admission to the centres were fragmentary, but appeared to indicate that most children referred were not offenders but children referred because of anti-social behaviour.⁶⁷ Indeed, data from four centres indicated that prosecutors stopped referring accused offenders to the in 2009, which would mean that they ceased to be used for diversion even before the present programme began.⁶⁸ Furthermore, the referral of younger children involved in offending or anti-social behaviour to the centres had not reduced the number of children in the special school.⁶⁹ Although the evaluation was unable to identify clearly the reason most centres were operating below capacity – if at all – it was clear that this was related to the transfer responsibility for the centres to the government.

Paradoxically, a survey of children who had attended the Centres in Sino and in Khujand found that the almost all of them found the experience beneficial. Of the 29 children surveyed, 28 enjoyed their participation in the Centres, and 25 reported that the experiences improved their attitude, outlook and relationships with others; after completing the programme 24 returned to school and 26 remained living with their parents.⁷⁰ The evaluation concluded that “The picture is not all negative, and the Centres that do appear to be functioning reasonably well, such as Khujand, Isfara and Panjakent, provide grounds for hope that the problems that exist can be overcome.”⁷¹ It recommended that

⁶³ Ibid, p.10

⁶⁴ It was carried out by the head of the Evaluation Team that prepared this final evaluation.

⁶⁵ Mid-Term Evaluation, p.7

⁶⁶ Ibid, note 21

⁶⁷ This trend was stronger in some centres than others. Ibid. p.9

⁶⁸ Ibid, p.14

⁶⁹ Ibid, p.13

⁷⁰ Ibid, pp.15-16

⁷¹ Ibid, p.7

Plans to further expand the network of community-based Centres should be eliminated ... in order to focus on the consolidation of the existing Centres, support for other school and community-based approaches to prevention and reforms in other areas [and] The work of existing community-based centres should be refocused on the prevention of *re-offending*.⁷²

With regard to school-based prevention, the evaluation concluded that the Ministry of Education did not understand the concept of early intervention, and considered activities such as cooperation with the juvenile police and the promotion of patriotism and respect for parents to be prevention.⁷³ Indeed, based on the above-mentioned survey of children the evaluation concluded that conditions in schools “have actually contributed to offending.”⁷⁴

The evaluation found that little effort had been made to provide out-reach services through the Reception and Referral Centres, and that there was little need for them to do so given the existence of community-based centres in both cities where the Ministry of Interior centres operate.⁷⁵

On other issues, the Mid-Term Evaluation found that no significant progress had been made on the reform of legislation and regulations, and that few courts had designated ‘juvenile judges’.⁷⁶ The Evaluation Team also agreed with the conclusions of an assessment made by the UNICEF Regional Office earlier in 2011, which found that, although physical conditions in a pre-trial detention unit for accused boys had been improved, conditions remained substandard in other respects and girls continued to be detained with adult women.⁷⁷ A programme to prepare prisoners for return to the community had been introduced at the juvenile prison, but in other respects conditions there, too, remained substandard.⁷⁸

The Mid-Term Evaluation concluded with 16 recommendations, including these:

- Regulations concerning Additional Education Centres should be amended to allow the recruitment of lawyers, psychologists and social workers, the parents/families of referred children should be incorporated into their activities, and at least half their caseload should consist of children involved in offending.
- Efforts to develop the capacity for early intervention and secondary prevention should be expanded beyond the community-based centres e.g. by strengthening the capacity of child rights units to provide psychosocial assistance.

⁷² Ibid, p.23 (emphasis added)

⁷³ Ibid, p.17

⁷⁴ Ibid.

⁷⁵ Ibid, p.19

⁷⁶ Ibid, pp.19-20

⁷⁷ Ibid, p.20

⁷⁸ Ibid, pp.20-21

- Schools should be transformed to help to prevent offending, through research on practices that contribute to failure and school-leaving and initiatives to create an inclusive environment that gives all students an real opportunity to be successful and develop the skills that help reduce the risk of offending.
- Support should be given to the establishing of a juvenile or children's court.

It also recommended that greater attention be given to the reform of facilities, including:

- The regulations governing placement in the special school should be amended to recognise expressly that placement should be a last resort, identify the alternative measures that should be exhausted before placement is approved, and establish safeguards to ensure that parental consent is informed and freely given.
- The detention of first offenders accused of non-violent offences should stop, the detention of juveniles in facilities outside the capital where the infrastructure does not allow separation from adults should stop, and constructive organised activities should be provided for juveniles in detention.
- Children who are not offenders should not be placed in the special vocational school, which should either be closed or converted into an open or semi-open facility for offenders.
- The juvenile prison should identify and treat prisoners having psychological and behavioural disorders; vocational training and training in life skills should be introduced; prisoners who make progress in rehabilitation should benefit from a special regimes; cultural, artistic, sport, religious and recreational groups should be set up; and correctional personnel should have special training to work with juveniles.

Recommendations concerning legislation included:

- police custody without a court order should be reduced to 24 hours;
- the use of solitary confinement as a disciplinary measure should be prohibited;
- the confidentiality of legal proceedings concerning juveniles should be recognised;
- confinement of convicted juveniles in detention facilities should not be authorized;
- diversion should be authorized for theft and possibly other more serious crimes;
- diversion to community-based programmes for the prevention of reoffending should be expressly authorised;
- consideration of diversion and release from criminal responsibility should be made obligatory in all cases in which it is allowed.

Recommendations regarding coordination, data and monitoring included:

- record-keeping regarding the case-load of the centres should be improved and children who complete the programme should be monitored for 6 to 12 months to document the effectiveness of the treatment provided
- indicators on offending by juveniles and juvenile justice should be revised to ensure that reliable data needed to monitor implementation of the project is

collected, and mechanism for pooling and analysing data produced by the most relevant ministries and sectors should be created
- the capacity of the Commission on Child Rights to effectively coordinate implementation of the NPA should be strengthened and the semi-annual meetings of the Ministries and other bodies involved in juvenile justice should be held.

Revision of the Programme Log Frame

After the Mid-Term Evaluation, UNICEF adopted a revised Project Logframe. The broad goal of creating a juvenile justice system compliant with international standards remained the same. This component envisaged the adoption of that a revised NPA for juvenile justice reform in 2012. Other goals included in this component include improvement in the data collection system and use of data to inform policy making, the monitoring of juveniles in closed facilities by the Ombudsman, and the preparation of a group of “Master trainers” and development of training materials for police, prosecutor, judges and attorneys. The adoption of a new Criminal Code and amendment of the Criminal Procedure Code to make them more compatible with international standards also was envisaged, although the amendments considered necessary were not specified.⁷⁹

The goal of having “juvenile justice alternative practices including preventive programmes” in use in 32 districts was reduced to the having community-based programmes in 15 districts. They already existed in 14 districts. This goal further indicated that referrals to these programmes would reduce the deprivation of liberty of children by an unspecified amount. This seems, in effect, to combine the second and third ‘key results’ of the original project proposal. The revised Logframe nevertheless contained a third goal, viz., “Programmes for preventing juvenile offending and re-offending are adopted and implemented by relevant bodies.” This seems to indicate a lack of clarity about the main thrusts of the project.

Some of the specific “expected outputs” and “indicators” of these two components are worth mentioning. The second indicated that children having committed minor and medium offences would be referred to alternative services instead of institutional care. This is significant because the legislation in force only allowed the diversion and imposition of educational measures instead of a sentence for minor offences.⁸⁰ It also envisaged the designation of specialized juvenile judges in 15 districts. The third component indicated that, in 15 districts, children released closed facilities would receive support in community-based programmes, and national plans for the prevention of offending by juveniles would be adopted annually.

⁷⁹ This, despite the fact that all 7 recommendations on law reform made by the Mid-Term Evaluation were endorsed by the 2011 Roundtable on Juvenile Justice System Reform.

⁸⁰ Art.89 of the Criminal Code on “Release from Criminal Liability using Compulsory Measures of an Educational Nature”, and Art.432 of the Criminal Procedure Code, on diversion. (In effect, this corresponds to one of the recommendations on law reform made by the Mid-Term Evaluation and endorsed by the Roundtable on Juvenile Justice System Reform in December 2011.)

The goals included in the Revised Logframe are largely in harmony with the recommendations made by the Mid-Term Evaluation, especially the main recommendation, i.e. that plans to expand the network of community-based centres be replaced by the goal of consolidating the functioning of those already in existence. Recommendations made by the Mid-Term Evaluation that were not incorporated into the Revised Logframe include the various recommendations regarding pre-trial detention facilities, the special vocational school and the juvenile prison; school-based prevention and strengthening the capacity of child rights units to provide psychosocial assistance.

Project Implementation 2012-2013

In 2012 some 117 children were “reached” by community-based centres.⁸¹ How many were diverted offenders and how many were children involved in anti-social behaviour is unknown.

A number of important developments concerning the institutional structure of the juvenile justice took place in 2012. An inter-agency working group on juvenile justice finally was established in July.⁸² Members of the working group participated in a study tour to Moldova. Two roundtables took place in 2012, one to discuss progress in implementation of the recommendations on implementation of the CRC made by the Committee on the Rights of the Child in 2010, and another to discuss the Juvenile Justice Assessment and the report on torture in the context of juvenile justice, both prepared under the auspices of the UNICEF Regional Office.⁸³ The Ministry of Justice’s Juvenile Justice Unit, established in 2011, was expanded into a Child Rights and Juvenile Justice Department.⁸⁴ UNICEF began to advocate for strengthening of the Commission,⁸⁵ and for approval of the NPA by a higher authority having the power to make implementation obligatory for the concerned ministries and institutions.

The Council of Justice issued an instruction to courts in the 15 districts to assign specialized judges to handle juvenile cases.⁸⁶ The Council also decided to establish ‘child-friendly’ rooms in 7 district courts, with UNICEF support.⁸⁷

⁸¹ Fifth Implementation Report, June 2013, p.11

⁸² Ibid, p.5 (Members include the Commission on Child Rights, Council of Justice, Supreme Court, Ministries of Justice, Interior, Education and Labour and Social Protection, the Ombudsman, local authorities and the NGO Child Rights Centre.)

⁸³ Ibid, pp.3-4

⁸⁴ Ibid, p.5

⁸⁵ This represents a shift of strategy recommended by the Mid-Term Evaluation; UNICEF’s support the creation of a Juvenile Justice Unit in the Ministry of Justice was due to the limited capacity of the Commission.

⁸⁶ Ibid, p.6

⁸⁷ Ibid, p.7

The Office of the Human Rights Commissioner established a Department on Child Rights, with UNICEF support, and began monitoring the juvenile prison and Special Vocational School. More than 10 complaints regarding violations of the rights of children were received during the year.⁸⁸ A report on torture in the context of juvenile justice in Tajikistan prepared by the Office of the Ombudsman and the Child Rights Centre was published.⁸⁹ Twelve short videos prepared by children affected by the juvenile justice system were produced, to raise awareness.⁹⁰

A number of important developments also took place with regard to training and capacity building. The Police Academy made training on juvenile justice mandatory for new recruits.⁹¹ A training-for-trainers event was organised, and the group of “Master trainers” formed with the support of the UNICEF Regional Office prepared curricula for the various concerned professional groups.⁹² A collection of training materials was prepared and distributed.⁹³ An international expert conducted a series of training events, including:

- a three-day training activity for judges assigned to cases involving children
- a three-day advanced training activity for judges and prosecutors who previously completed basic training
- a four-day inter-disciplinary training event for judges, prosecutors, police and lawyers in the 15 districts
- a one-day training for appellate judges, and
- a one-day discussion with members of the Supreme Court.⁹⁴

In addition, an expert in social work provided on-the-job training to the staff Centres for Additional Education and helped to develop tools such as manuals on relevant social work techniques, guidelines on project implementation, and brochures to make the public aware of the services available.⁹⁵

Extension of the project in 2014

The project was originally intended to end in March 2014. A no-cost extension of six months was agreed because there was a delay in the receipt of the final tranche, which would have made it difficult to spend the corresponding funds efficiently during the final months of the original project duration. Twenty training activities supported by UNICEF took place during the last 9 months of the project.

⁸⁸ Ibid, p.6

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ibid,

⁹² Ibid, pp.10-11

⁹³ It includes a compilation of international instruments on justice for children, the Committee on the Rights of the Child’s 2010 Concluding Observations on Tajikistan, the Regional Office’s 2011 Assessment of Juvenile Justice in Tajikistan, the 2010-2015 NPA on Juvenile Justice and the UNODC-UNICEF Handbook on Child Victims and Witnesses of Crime.

⁹⁴ Fifth Implementation Report, supra, p.9

⁹⁵ Ibid, pp.12-13

3. Key stakeholders and the contributions of UNICEF and implementing partners

The stakeholders in the project include 2 broad groups: implementing partners and beneficiaries. Implementing partners can further be subdivided into governmental and non-governmental parties, and governmental partners can be subdivided into national and local or regional partners.

The main governmental partners on the national level were:

- the Commission on Child Rights
- the Council of Justice
- the Ministry of Interior (especially the Prevention Police)
- the Ministry of Education (especially Centres for Additional Education)
- the Ministry of Justice (including the Board of Execution of Criminal Sentences)
- the Office of the General Prosecutor
- the Office of the Commissioner for Human Rights

Governmental partners on the local level included district/municipal governments, Commissions on Child Rights and Child Rights Departments/Units. The main civil society partners were the NGO 'Child Rights Centre', the NGO 'Sarchashma' and Tajik National University.⁹⁶

The primary beneficiaries of the project include children at risk of offending, children involved in criminal conduct, and children 14 to 18 years of age accused or convicted of an offence.⁹⁷ Secondary beneficiaries include the families of children at risk and juvenile offenders. Some children who are victims of crime or involved in civil cases, or whose problems have been addressed by the new Child Rights Department of the Commissioner of Human Rights, also are unexpected beneficiaries, as indicated in the reply to evaluation question 5, below.

A different category of beneficiaries consists of government officials who have received training thanks to the project. They include judges, prosecutors, police officers, criminal investigators, the staff of the juvenile prison colony and detention centres, the staff of educational facilities for children at risk or offenders given alternative sentences, and the staff of Commissions on Child Rights, Child Rights Departments and Units, and community-based prevention centres. Some practicing lawyers not employed by any public agency also benefitted from training.

Ultimately, if the project had been successful in preventing offending or reoffending by juveniles, Tajik society as a whole would have been benefitted. Information provided by

⁹⁶ The university is State-funded, but public universities are usually considered part of civic society because of the principle of academic freedom.

⁹⁷ The category of convicted offenders includes juveniles given a prison sentence allowed to remain in the juvenile prison colony after reaching the age of 18. Similarly, the category 'children at risk' includes children who come into contact with the police for anti-social behaviour, regardless of how real the 'risk of offending' may be.

local authorities in Khujand indicates that the population of that city has benefitted from a reduction in offending by juveniles.

UNICEF's contribution to the project included the USD 2,200,000. spent on the project. Annual disbursements were as follows:

Utilization for SC100026		
Year	Funded	Utilized
2010	297,046	297,046
2011	478,540	478,540
2012	449,864	449,864
2013	316,896	316,896
2014	499,425	498,615
Total	2,041,771	2,040,961

The present report does not further describe how the budget of the project was spent because the two intended beneficiaries of the Final Evaluation, UNICEF and the donor, are fully cognizant of how these funds were spent.

Some counterparts made in-kind contributions to the implementation of the project. The Ministry of Education allowed the infrastructure of Centres for Additional Education to be used for community-based prevention centres, and also contributed the services of teachers employed by these centres. The staff of the juvenile justice and child rights department of the Ministry of Justice and the child rights department of the office of the Human Rights Commissioner, created with project support, and now financed entirely by the Ministry of Justice and the Office of the Commissioner.

The Ministry of Interior introduced a component on juvenile justice into the training programme of police cadets. The salaries of the staff responsible for this component are paid by the Ministry. Similarly, a number of judges, prosecutors and criminal investigator have been trained as 'Master trainers' and participate in training activities for professionals working in juvenile justice. These trainers are compensated by the ministries or other governmental bodies that employ them.

In Khujand, the municipal government provides the infrastructure used by the prevention centre, and pays the salaries of most of the staff.

UNICEF's extensive contributions to the project included:

- operating costs of community-based prevention centres, in particular the salaries of staff other than teachers (mainly social workers)
- renovation certain facilities including three community-based centres
- renovation of the child-friendly facilities in 3 trial courts
- purchase of office equipment for offices of prosecutors and police in some districts, as well as some courts and the juvenile prison colony
- start-up costs of the juvenile justice and child rights department of the Ministry of Justice and the child rights department of the Commission on Human Rights
- travel expenses for governmental authorities who attended the 2011 Central Asian Child Protection Forum and the 2012 meeting on Torture and Ill-Treatment in the Context of Juvenile Justice in Brussels
- two study visits for representatives of counterparts, one to Switzerland and one to Moldova
- fees and travel expenses of international experts who carried out more than 35 training activities and advocacy

The value of UNICEF's contribution over the duration of the project was USD 2.2 million, not including the value of the administrative services and advocacy carried out by staff other than the national child protection officer whose salary was covered by this project.

4. The scope of the project

Some of the project activities, including training and the support for community-based prevention centres, focused on 15 districts. Some other activities had – actually or potentially – impact on the national level. These activities included support for law reform (which has not yet had tangible results), support for the creation of the child rights department of the Office of the Commissioner for Human Rights, and the adoption of new indicators for the collection of data on children and the administration of justice by the Council of Justice. The training of staff of centralised institutions such as the juvenile prison colony for boys, and the training of police cadets, affects children from all parts of Tajikistan. Some of the training that focused on professionals from the 15 districts also has benefitted other parts of the country, due to the transfer of trained judges or other professionals. Advocacy with key officials of the central government, including participation in study visits and relevant regional meetings, also has had a perceptible positive impact on understanding and attitudes concerning child rights on the national level.

III. The Purpose, Scope and Methodology of the Evaluation

This is the final evaluation of implementation of the Juvenile Justice Alternative Project, financed by grant from the Swiss Agency for Development and Cooperation. The main purpose of the Evaluation is to comply with UNICEF's contractual obligation to the donor. The evaluation also makes recommendations to UNICEF as to what should be done to follow-up on the project's achievements, and analyses the reasons why some goals were not met. Other objectives were to document the positive results of the project as well as the objectives that were not met, and assess to what extent the reasons some objectives were not met or only partially met (e.g. flaws in the project design, poor management by UNICEF, insufficient cooperation by counterparts, or unanticipated external factors). To this end, the Report addresses 23 Evaluation Questions concerning the relevance, effectiveness, efficiency, impact and sustainability of the project. The objectives also included making recommendations to UNICEF as to what if anything should be done to consolidate the achievements of the project, whether and under what conditions support for specific project activities should continue, and whether UNICEF should take advantage of the experience gained and work done during the project to address other issues related to justice for children.

The Evaluation Report was written for the donor and the UNICEF Country Office. The government has expressed interest in the conclusions of the report, and the UNICEF Country Office, once it has decided which conclusions and recommendations it shares, will decide to how use them in negotiations regarding UNICEF's future work on juvenile justice and access to justice in Tajikistan. The complete Evaluation Report will not be translated into the national language and distributed to national counterparts. The Evaluation Team's analysis of this project may help other UNICEF offices in the region develop more effective projects on juvenile justice, but the Evaluation was written for the UNICEF country office and the donor.⁹⁸

The Evaluation Team consisted of Dan O'Donnell, head of the Team, Galina Derevenchenko, national expert, and Prof. Gulnora Gulmirsoeva, psychologist.⁹⁹ The head of the team was responsible for an assessment of juvenile justice in Tajikistan carried out by the UNICEF Regional Office for CEE-CIS in 2011 and the Mid-Term Evaluation of this project, also in 2011; Ms. Derevenchenko participated in the 2011 Assessment and Prof. Gulmirsoeva participated in the Mid-Term Evaluation in 2011. The work of the Evaluation Team was supported by Siyma Barkin-Kuzmin, Nargis Karimova and Mavzuna Nurkhanova of the UNICEF Country Office in Tajikistan.

The evaluation is based on:

1. project documents
2. a mission by the head of the Team and national expert 6 to 20 Oct.

⁹⁸ Consequently, the report does not describe in detail information known to the Country Office and donor.

⁹⁹ Mr. O'Donnell and Ms. Derevenchenko are independent human rights consultants; Prof. Gulmirsoeva is Senior Lecturer at Tajik National University.

3. a survey of children and their parents or caretakers Oct. to Nov.
4. a questionnaire designed to assess the impact of training carried out in the framework of the project

The persons interviewed during the mission include representatives of the Swiss Agency for Development and Cooperation, UNICEF staff, and representatives of most of the main governmental counterparts, including the Ministries of Education, Justice and the Interior, the Council of Justice, the Office of the Prosecutor General and the Ombudsman. Since the post of Deputy Chair of the Commission on Child Rights was vacant, the Evaluation Team interviewed, and at the end of the mission debriefed, the Head of the Legal Department of the Presidency. The Evaluation Team also interviewed a representative of one of the two main NGO partners, local and provincial authorities in Khujand, and representatives of the international community, including the UNDP, the European Union, the OSCE and two international NGOs. A list of persons interviewed is found in Appendix 1.

During the mission the Evaluation Team visited community-based prevention centres in Khujand and in Dushanbe, and the Ismoili Somoni district court in Dushanbe. Time constraints precluded visits to juvenile justice facilities and other facilities such as the Special School. Two members of the Evaluation Team visited the juvenile prison colony and Special School in 2011, and information on more recent development was obtained from the staff of the Ombudsman's Child Rights, officials of the Ministries responsible for these facilities, prisoners and other sources having personal knowledge of conditions in them.

The survey conducted as part of this Evaluation was similar to that carried out as part of the Mid-Term Evaluation. The main difference is that, while the 2011 survey was used only to obtain information about the experiences and views of children who had benefitted from the community-based prevention centres (and their parents), the 2014 survey covered three additional groups: students having been placed in the Special School, former prisoners of the juvenile prison colony, and children having been registered with the prevention police. It also covered children having attended two different community-based centres: the centre in Khujand and the new centre in Dushanbe. The main purpose of this survey was to compare the impact of these different experiences on attitudes and values related to the risk of offending and re-offending. The plan was to obtain information from 10 children from each of the 5 groups mentioned above, with a balance as to age, sex and reason for referral (offending or anti-social behaviour). Participation in the survey was voluntary, and the identity of the respondents is confidential. For more information, see Appendix 5.

The questionnaire on which the semi-structured interviews were based did not contain any legal terminology that might be difficult for children or poorly educated adults to understand. It was prepared in two languages.¹⁰⁰ The researcher, who has considerable experience in interviewing children on sensitive issues, made

¹⁰⁰ The Russian version can be found in Appendix 5. A Tajik version also was used.

arrangements to be accompanied by persons known to the respondents, introduced herself and mentioned her affiliation with the university and with UNICEF, explained the purpose of the interview to all potential respondents, and informed them that their identity would be confidential and that they could freely decide whether to participate or not.¹⁰¹ The interviews with children covered both boys and girls, and children of different age groups. No significant differences were noted in their replies.

Because the effectiveness and impact of training was not monitored on a regular basis throughout the project, the Evaluation Team decided to prepare a questionnaire to assess the results of training. The tool prepared for this purpose was designed to obtain information on the attitudes and values of juvenile justice personnel on issues relevant to juvenile justice and child rights, and knowledge of basic information concerning national and international norms and child development. It also asked for their views on the value and practical usefulness of the training received, and their views on the project.¹⁰² Fourteen persons responded to the questionnaire, including 4 judges, 5 prosecutors, 2 criminal investigators, 2 social workers and the Secretary of a Commission on Child Rights. Three of the persons who answered the questionnaire had attended one training event, 8 had attended more than one, and 3 had not attended any. The Evaluation Team wanted to apply to the questionnaire to a larger sample, but this was not feasible. The Ministry of Interior was asked to send prevention police officers to respond to the questionnaire, but did not do so.

Replies to the questionnaire were anonymous, to encourage frankness. The application of the test was combined with focus group discussions, in which the respondents were asked about their views on the project and the future of juvenile justice in Tajikistan. Three focus group discussions were held, one for judges and prosecutors in district that had not been targeted by the project (Rudaki district), one in Dushanbe for a mixed group of juvenile justice professionals, and one for 'Master trainers'.

All children 'in conflict with the law' are vulnerable. The aim of the project was to ensure greater respect for the human rights of such children. A child who stabs another child, kills his father or commits a sexual offence is vulnerable, regardless of ethnicity or economic status. It is possible that the law enforcement/justice system responds differently to a juvenile offender, in function of his/her economic situation, ethnicity or other factors that should not be relevant. In Tajikistan, data on offending and the treatment of offenders is not disaggregated by ethnicity. There is wide agreement that poor children and children from vulnerable families (e.g. single parent families, families where a parent is working abroad, families with a parent who is in prison, or an alcoholic or drug abuser) are more likely to become offenders. Objective data on whether children from such families are actually more likely to commit crimes are, however, unavailable. There is anecdotal evidence that the social, economic status or political connections of the parents of children who commit offences or are

¹⁰¹ The Tajik version of the consent form used can be found in Appendix 5.

¹⁰² see Appendix 4

involved in 'anti-social' behaviour influences the way they are treated by the system, notably due to the inability of poor families to pay bribes.¹⁰³ At present, however, the data that would be needed to analyse such issues do not exist.

The views of stakeholders were taken into account in preparing the Evaluation, including recommendations. Trainers and juvenile justice professionals were invited to comment on the project, both in writing and in the focus group discussions that followed the application of the questionnaire. (See Appendix 3) The survey of children and parents also asked for their views on what should be done to prevent offending and improve the treatment of offenders. (See Appendix 6) The representative of the Presidency and the Commission on Child Rights were debriefed on the tentative conclusions of the Evaluation Team at the end of the mission, and their comments were taken into account in the preparation of this report.

More generally, the Evaluation Team developed hypotheses as to the extent and impact of achievements and reasons for both achievements and failures to meet some goals throughout the mission and throughout the process of drafting and revising the report.¹⁰⁴ Tentative conclusions were tested during interviews with UNICEF staff, governmental counterparts and other key informants, and through the analysis of such data as could be found. In so far as data are concerned, a distinction should be made between data on the activities of community-based prevention centres, and data collected by ministries and courts. The project assigned responsibility for the compilation of data on the caseload of community-based centres to the Commission on Child Rights. When it did not meet this responsibility, UNICEF made an effort to collect data directly from the centres, but was unable to provide any the Evaluation Team with reliable, disaggregated data of this kind covering the project period. In the absence of such data, the Team made an effort to use data from official counterparts on related issues, but the indicators used did not allow conclusions to be drawn on the number of children referred to such centres and the reasons for their referral. Data on indicators such as the population of the juvenile prison colony and special school, and the prosecution sentencing of juveniles not published and must be requested through a slow and inefficient process involving the Ministry of Foreign Affairs. A list of the data needed was submitted to the Ministry before the mission, but replies from the different ministries and agencies were received piecemeal and slowly. Some key data was received only in December, after repeated requests by UNICEF.

The Inception Report anticipated the negative impact that lack of reliable data could have on 4 of the 20 Evaluation Questions. The lack of reliable, disaggregated data on the indicators identified in the Inception Report was indeed a serious problem that affects the degree of certainty of some conclusions, but in the end prevented replying

¹⁰³ One informant stated that many children 'at risk' placed in institutions are children of second wives or informal marriages, but this has not been studied or documented.

¹⁰⁴ The psychologist who formed part of the Evaluation Team had less direct participation in this process, due to logistical constraints. (The Team leader was only in Tajikistan for 2 weeks and the psychologist was in the field conducting interviews most of that time.)

to only one Evaluation Questions. (See below) The Inception Report also anticipated difficulties due to the length of the evaluation mission and time needed for field visits, but the consequences of the unavailability of some key representatives during the time the Evaluation Team was in the capital were greater than expected. (See below)

IV. Main Findings

1. Community-based prevention

Prevention of offending includes secondary and tertiary prevention. Secondary prevention is designed to prevent offending by persons who are not offenders but have been identified as having a higher risk of offending; tertiary prevention is the prevention of reoffending.¹⁰⁵ Secondary and tertiary prevention include both centre-based activities and other activities, including school-based programmes and outreach programmes.

Expansion of the pre-existing network of centres designed to provide both secondary and tertiary prevention was a key goal. This was expected to (1) reduce the number of children deprived of liberty and (2) reduce offending by children.¹⁰⁶ The number of centres in existence at the end of the project was 8, compared to 5 when the project began and 14 at the time of the Mid-Term Evaluation. The existing centres cover 12 districts.

Offending 2010-2014

Offending by juveniles reportedly declined during the first and second years of the project, but increased significantly in 2012 and 2013.¹⁰⁷ In 2013, the number of recorded offences by juveniles was higher than it had been any year since 1996.¹⁰⁸ The number of juveniles convicted during the years 2010-2013 also was 15% higher than the number of convictions during the previous four years.¹⁰⁹

Table 1

	2006	2007	2008	2009	2010	2011	2012	2013
crimes by juveniles ¹¹⁰				589	530	545	625	725

¹⁰⁵ Primary prevention includes measures directed to of the population, such as support for poor families, or access of children to education and healthy recreational and cultural activities.

¹⁰⁶ Juvenile Justice Alternative Project: A proposal, UNICEF, 2009, pp.1, 4

¹⁰⁷ Taking as the baseline the 589 recorded offences by juveniles in 2009, it fell by 10% in 2010, and was 6% higher in 2012 and 23% higher in 2013. It should be noted that statistics on crime and justice are not published, and the statistics given to UNICEF at different times vary considerably. For example, UNICEF previously had been informed that the number of crimes by juveniles in 2009 was 415.

¹⁰⁸ TransMonee, Juvenile Justice and Crime Indicators, 2014, www.transmonee.org.

(The legal advisor to the Presidency suggested that the real number of offences may not have increased so dramatically, and the increase in reported offences may be due in part to increased confidence in the police.)

¹⁰⁹ 1593 convictions 2006-2009 (an average of 457 per year) compared to 1829 convictions 2010-2013 (an average of 398 per year), unpublished CoJ data.

¹¹⁰ Unpublished data of the Ministry of Interior

convicted juveniles ¹¹¹	452	385	358	398	418	382	504	525
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Deprivation of liberty 2010-2014

The population of the juvenile prison colony and juvenile girls in the women’s prison increased in 2010 and 2011, but fell sharply in 2012.¹¹² In 2013 it increased, and was higher than in 2009, the year the project began.¹¹³ Data for 2014 is not available. The average number of prisoners during the first three years of the project was slightly lower than the average for the previous four years.¹¹⁴

Table 2

	2006	2007	2008	2009	2010	2011	2012	2013
juvenile colony	107	69	72	49	79	92 ¹¹⁵	43	65
women’s prison	2	0	1	1	0	1	3	2
Total	109	69	73	50	79	93	46	67

The population of the Special School was quite high in 2011 and 2012, but lower in 2013 and 2014.¹¹⁶ In 2014, it was almost identical to the population in 2009, the year before the project began.

Table 3

	2006	2007	2008	2009	2010	2011	2012	2013	2014
special school	100	n/a	70	49	43	82	88	55	48

The use of pre-trial detention fell during the second year of the project, but increased during the third and fourth years.

Table 4

	2006	2007	2008	2009	2010	2011	2012	2013
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¹¹¹ Unpublished data of the Council of Justice

¹¹² The decrease is due, in part, to the release of most prisoners late in 2011, thanks to an amnesty.

¹¹³ Another amnesty took place late in 2014, after the end of the project. Information on the population of the juvenile prison before the amnesty is not available, but 64 juveniles were admitted during the year.

¹¹⁴ 72 for 2010-2012; 75 for 2006-2009. unpublished data of the Board of Correctional Affairs

¹¹⁵ Most prisoners of the juvenile prison colony were released before the end of the year due to an amnesty; this figure in the table includes those released under the amnesty.

¹¹⁶ The population of the special school includes both offenders and children involved in “anti-social” behaviour, some of whom are placed with parental consent. An Assessment carried out by the UNICEF Regional Office in 2011 concluded that had been converted into a semi-open facility (p.35), but for purposes of this analysis it will be considered a place where children are deprived of liberty.

detention orders for juveniles	56	32	32	n/a	58	41	61	67
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Growth and decline of the network of community-based centres

Table 5

Centre	Established	Closed
Sino	2004	2012
Firdavsi	2005 (transferred to CAE 2008)	2012
Khujand	2007 (closed 2009; reopened 2010)	
Isfara	2008 (covers 2 districts)	
Gafurov	2008	
Panjakent	2010	
Kulyab	2010	
Bokhtar	2010	2012
Panj	2010	2012
Kabodien	2010	2012
Rasht	2010	2012
Shugnan	2010	2012
Kurgan-tyube	2011	
Konibodom	2011	
Dushanbe city	2014 (covers 4 districts)	

The Sino centre was closed by the local authorities of Dushanbe.¹¹⁷ Six other centres were closed when UNICEF decided to stop supporting them. The main reason was the small caseload; poor staff motivation, high turnover and, in Bokhtar, Kabodian, Panj and Rasht, inadequate or poorly located facilities were additional reasons. The centres closed include five of the seven opened in 2010, and the first two pilot centres. Both of the centres opened in 2011 remain open and have caseloads of average or above average size. (see below)

The community-based centres and their caseloads

Table 6

Centre	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014*
Sino	28	32	40	29	11	14	2 [#]	close d	closed	Closed
Firdavsi	1	14	29	6	3	n/a	1 [#]	close d	closed	Closed
Gafurov	-	-	7	7	7	14	25	21	6	5
Isfara	-	-	-	10	15	20	8	8	10	7
Khujand	-	-	5	14	7	13	18	17	14	13

¹¹⁷ The reported reasons were “serious allegations” related to corruption and conflict of interests.

* January-September

Panjakent	-	-	-	-	-	18	10	12	18	30
Bokhtar	-	-	-	-	-	8	n/a	n/a	closed	Closed
Kulyab	-	-	-	-	-	n/a	50	8 [#]	11	16
Panj	-	-	-	-	-	12	11	n/a	closed	Closed
Kabodien	-	-	-	-	-	n/a	16	n/a	closed	Closed
Rasht	-	-	-	-	-	n/a	16	n/a	closed	Closed
Shugnan	-	-	-	-	-	4	11	6	closed	Closed
Kurgan-tube	-	-	-	-	-	-	n/a	1 [#]	18	16
Konibodom	-	-	-	-	-	-	16	7	6	12
TOTAL	29	46	81	66	43	103	184	80	83	99
average	15	23	20	13	9	13	15	12	10	14

This chart is based on data provided to the Evaluation Team by UNICEF. The data provided at different points in time are not consistent. In most cases the discrepancies are relatively small, but efforts to eliminate them were not successful. The primary reason for that reliable data are not available is that neither the Commission on Child Rights nor the Ministry of Education made a serious effort to carry out their responsibilities for monitoring the operation of the Centres. UNICEF consequently made efforts to collect what data it could directly, but recordkeeping by most Centres was poor. To some extent this may be attributed to weak understanding of the relevant indicators and procedures, but a weak sense of accountability and commitment to the project also played a role.

Furthermore, such data as does exist cannot be disaggregated by age or by the reason for referral (anti-social behaviour or offending). This makes it impossible to know the extent to which the services provided should be considered prevention of offending, or prevention of re-offending.

The two centres visited during the evaluation

The Evaluation Team visited two centres, one in Dushanbe and one in Khujand. The centre in Dushanbe, like six others, is located in a Centre for Additional Education. The centre in Khujand is located in a former shelter for street children.¹¹⁸ Both provide services to other children, in addition to those for whom the community-based centres for prevention were designed. The CAEs provide courses not offered by the public schools to any child of school age whose parents request their admission.¹¹⁹ The centre in Khujand provides temporary shelter to children who, for one reason or another, are unable live at home.

[#] January-June

¹¹⁸ The centre for street children was operated from 1998 to 2009, by the NGO Helping Hands. The level of offending in Khujand reportedly decreased during these years, and increased when the centre was closed in June 2009.

¹¹⁹ Normal schools have morning and afternoon shifts, so children who attend a normal school may attend a CAE in the afternoon, and vice-versa. Courses include hair styling, electronic repair, art and music.

The centre in Dushanbe accepts offenders and children at risk of offending from all four districts located in the capital; the centre in Khujand also accepts children from surrounding districts. The only additional services that the Dushanbe centre offers to offenders and children at risk are those provided by social workers. There are one full-time and two part-time social workers on the staff. They are paid with project funds. Like all social-work providers in Tajikistan, they are paraprofessionals without expertise in helping offenders and children with more serious behavioural problems. Consequently, the range of services provided by this centre are narrower than those the provided by the first pilot projects, whose apparent success in lowering the rate of offending and preventing reoffending inspired the present project. The Director of this CAE sees the services provided by social workers as a valuable addition to the classes traditionally provided, and their services are available to any child enrolled in the CAE. He also stated that he has requested funds to retain the services of a lawyer and psychologist.

In principle, offenders and children at risk are treated the same as other students and the reason for their presence is confidential. Of the 24 children referred to the Dushanbe centre in 2014, two are boys referred by courts, one for theft and one for a sexual offence. Two are girls, both referred for “bad behaviour”.

The centre in Khujand was opened under an NGO in 2007. It closed in 2009, and re-opened under the municipal government in 2010. Its’ staff includes 2 social workers, 2 psychologists, and 3 medical professionals. There are two separate groups of beneficiaries: older children and adolescents who are offenders or at risk of offending, and children in need of temporary shelter. Offenders and children at risk are admitted for 4 months, and there is a 4 month period of follow-up after the programme is completed. At the time of the evaluation mission, 8 children belonging to this group were receiving services. Most were runaways involved in theft, but two were referred for fighting (hooliganism). Some of the children come from the other 4 districts in Khujand province. In principle referrals can be made by the police, prosecutor or judge, but since they all participate in the Commission on Child Rights, the practice that has evolved is for the Commission to adopt the decision referring a child to the centre. The surveys of children who had been referred to this centre, conducted in 2011 as part of the mid-term evaluation and again in 2014 as part of the present evaluation, confirm that children find the experience positive and helpful. (see Appendix 6)

The centre in Khujand is the one of only two that is not located in a CAE, and the only one to be financed mainly by the local government [*khukumat*] rather than the Ministry and Department of Education.¹²⁰ It also received supplementary support from UNICEF, which in 2014 was 12,500 Som (some 2,400 USD) quarterly. At this writing the local government has not indicated whether it plans to increase its’ funding to cover the contribution that UNICEF has been making.

¹²⁰ The centre in Isfara was moved from a CAE to a Youth Centre due to security concerns, but is staffed by personnel under the Ministry of Education.

The municipal and regional Commissions on Child Rights are very supportive of the centre. They stated that more than 70 offences were committed by juveniles in Khujand during 2009 (when the NGO-operated programme closed), and only 30 offences were reported in 2013. The representatives of the Commission estimated that one in ten children referred to the centre reoffend. They also pointed to increased cooperation between juvenile justice actors as a benefit of the UNICEF-supported project. This is another dimension of the project design that most other centres had difficulty to implement.

Another development that occurred during implementation of the project was the strengthening of preventive activities in the schools in Khujand. Beginning in 2013, the department of education has been trying to recruit a psychologist for each school. NGOs offer special programmes for offenders in five schools, and the Commission on Child Rights uses referral to them as a preventive measure, to reduce the risk of stigmatization.

The survey of children conducted as part of this evaluation included interviews with 9 children who had been referred to the centre in Khujand, and 7 who were attending the centre in Dushanbe. All the children interviewed reported that the experience had been a positive one for them.

The survey report also confirmed that children who attended the Khujand centre benefitted from a wider range of services, including psychological assistance, informal mediation and legal advice and assistance. The range and quality of the services provided by social workers also varied. The social workers in Khujand are more proactive in helping children and their families find solutions to problems concerning access to services, or other social or legal problems. To some extent this is no doubt due to the fact that the director and staff of the Khujand are experienced while the Dushanbe centres is new, but it is also due to the abandonment of the inter-disciplinary approach that all the centres followed initially.

Conclusions

Efforts to develop preventive activities in the CAEs met with many difficulties. Four of the six CAE-based centres operating in 2013 had caseloads of less than one child per month. This situation seems to be improving, however: in 2014, the average caseload of the Centres open increased from 10 to 14 per year.

The kind of preventive activities being provided is narrower than those envisaged by the project design. The approach is not interdisciplinary, except to the extent that it involves some social work in addition to education. The social workers available are not qualified to assist children with behavioural disorders related to offending. There are no plans to provide psychological assessments, individual, group or family counseling, or victim-offender mediation. Integrating social work into the services

provided by the CAEs is a positive development, but not one that will facilitate the diversion of offenders having more serious needs.

The Khujand centre is the only one that offers the range of preventive activities envisaged by the project design, for children at risk of offending and for offenders. This appears to be because the centre was not placed in a CAE. The evaluation team made an effort to discover whether there are special factors that made this approach feasible in Khujand, but not in other municipalities or region. Some sources spoke of cultural or social differences that explain the commitment of public officials in Sughd province to serving the needs of the public. The commitment and persistence of the director of the centre, and the supporting role of experienced NGO staff in the development of the center, also have been mentioned. The increase in offending that followed the closure of the NGO project for street children, some months before the opening of the new centre in Khujand, may have contributed to the willingness of the local government to support it. The evaluation team cannot say whether these factors are so unique that efforts to replicate this model elsewhere would be ill-advised. We do believe that, while school-based prevention is important and should be supported, schools and other educational centres are not the most logical framework for the more intensive, interdisciplinary methods needed by some offenders and children at risk. It also seems logical to expect communities most affected by offending to be willing to invest in programmes that have been shown effective in preventing offending. Furthermore, it would seem logical to expect that the risk of employing unqualified and poorly motivated staff and waste of resources would be lower when a local government decides to support a preventive programme with its' own resources.

2. Capacity-building

Capacity-building in this project had three main dimensions: advocacy and support for the creation of specialized bodies and personnel, training of juvenile justice professionals, and strengthening of coordination, monitoring and data collection and analysis on the national level. A fourth, less important dimension was the provision of material assistance to implementing partners, ranging from office supplies and equipment to the renovation of infrastructure.

Early in 2014, high ranking officials involved with juvenile justice made a study visit to Switzerland, where they visited the Child Rights Unit of the *Institut Universitaire Kurt Bösch* and various juvenile justice institutions. Several key informants returned with useful ideas for the development of juvenile justice in Tajikistan.¹²¹

Specialized units and personnel

¹²¹ One example is the improvement of data collection and management, cited by a prosecutor and "master trainer"; the idea establishing a new facility under the Ministry of Education is not an example.

Early in 2012, judges were assigned to handle cases of accused juveniles in 23 district and city courts.¹²² They also handle other cases involving children, including criminal cases in which the victim is a child, and family law cases. There are no specific requirements concerning the training or other qualifications of the judges appointed, and they are not assigned exclusively to cases involving children and juveniles. Nevertheless, most of them have participated in one or more training activities on juvenile justice, child rights and child development, and those interviewed by the Evaluation Team were knowledgeable and committed.

It is not surprising that the judges appointed to handle cases of juvenile offenders also handle other cases. In 2013, the 581 cases of accused juveniles that were heard by the courts was far less than 1% of the judicial caseload.¹²³ Indeed, during 2013 the courts handled 7,195 cases of divorce of couples having minor children and 5,432 cases involving non-payment of child support.¹²⁴ In these circumstances, the decision to appoint specific judges to handle both civil and criminal cases involving children is logical. In 2013, the number of criminal cases involving child victims was 221.¹²⁵

In 2012 two specialized Departments were created, one in the Ministry of Justice and one in the Office of the Ombudsman. The Ombudsman's Department on Child Rights has a staff of 3, one of whom is devoted to juvenile justice. All 3 are located in the main office of the Ombudsman in Dushanbe.¹²⁶ The Department began with UNICEF funding, but its' operational budget is now financed by the government. Between July 2012 and June 2013, 120 complaints were considered. Most complaints concerning rights of children are submitted by parents, and most concern access to education or non-enforcement of judicial decisions or orders concerning family matters. Few complaints concerning juvenile justice are received, but one representative of the Department on Child Rights visits juvenile justice facilities on a regular basis and this monitoring has had some positive results. In 2011-2012, the Office of the Ombudsman cooperated, jointly with the Child Rights Centre, in a project on torture and ill-treatment in the context of juvenile justice that was sponsored by the UNICEF Regional Office for CEE-CIS.

UNICEF originally decided to advocate for the creation of a Juvenile Justice Unit in the Ministry of Justice because of concern about the lack of capacity of the Commission on Child Rights. In effect, UNICEF hoped that, with a specialized unit, the Ministry would take an active role in coordination and monitoring activities concerning juvenile

¹²² In 2006 the Supreme Court adopted a decision recommending the president of each trial court to appoint a judge to handle juvenile cases, but it was widely ignored. The new decision was taken by the Council of Justice in February 2012, and implemented in March.

¹²³ The judicial caseload was 127,526 cases. Report of the Human Rights Commissioner for 2013, p.272, citing the Council of Justice

¹²⁴ Ibid, p.314

¹²⁵ Unpublished data of the Council of Justice

¹²⁶ The office of the Ombudsman also has 8 field offices, called "legal advice centres".

justice. This did happen, although the concrete results of increased coordination remain limited at this time. (see below)

The unit on juvenile justice established in 2011 was upgraded to a Department on Juvenile Justice and Child Rights in 2012. It coordinated the preparation of a draft National Plan of Action on Justice for Children and a draft Programme for Judicial Legal Reform, and has been receptive to inputs from UNICEF. It would be premature to assess the impact of the Department in law reform and the preparation of plans and programmes, however, since they have yet been enacted and adopted.

Coordination, monitoring and data collection and analysis

The original logframe did not recognize any goals of this kind, but the revised logframe called for the adoption of an amended NPA on juvenile justice, the adoption of annual national plans for the prevention of offending, a national coordination mechanism to monitor and oversee implementation, and an improved data management system “to support evidence based policy making”.

The national Commission on Child Rights, which is chaired by the Deputy Prime Minister, was assigned main responsibility for coordinating implementation of the project. The Commission did not meet until the last year of the project, however.¹²⁷ UNICEF’s response was to emphasis cooperation with line ministries, the Council of Justice and Office of the Prosecutor General, and to support the creation of the Juvenile Justice and Child Rights Department in the Ministry of Justice and encourage the Ministry to take a more active role in coordination. In 2013 the Deputy Chair of the Commission on Child Rights was removed and has not been replaced.¹²⁸

Although the Commission met only once during the project, two inter-ministerial meetings were organised, one in 2013 and one in 2014. However, the concrete results of increased coordination remain limited at this time. For example, increased coordination has yet to result in the adoption of any significant new legislation, the establishment of an inter-ministerial mechanism for the consolidation and analysis of data on juvenile justice, or progress towards goals concerning the educational system.¹²⁹

No national plan for the prevention of offending has yet been adopted, although, although a draft law on the prevention of offending has been prepared and submitted to the government.

¹²⁷ UNICEF documents indicate that an informal meeting of some members was held to prepare for the Central Asian Forum on Juvenile Justice.

¹²⁸ The Deputy Director was one of only two staff members, the other being the Secretary of the Commission.

¹²⁹ E.g. introduction of early intervention programmes in schools, conversion of the Special Vocational School to an open facility.

The Council of Justice modified the forms used by courts to report on their caseload of accused juveniles, in 2012, to obtain more data on the crimes committed and the outcome of proceedings. Reporting forms are now being modified to obtain more information on child victims. No steps have been taken, however, to centralize and integrate data produced by different parts of the system, including the police, prosecutors, courts and correctional system. The possibility of publishing data has been raised in the inter-agency working group, but no decision has been made.

Training

Training was given priority during the second part of the project, especially 2013 and 2014. Training, together with administrative reforms, was seen as part of a strategy for overcoming the problems that were affecting the central component of the project, the centres for the prevention of offending and re-offending. Training was provided both to the staff of centres and to the “referral agencies”, including prosecutors, judges, police and Commissions on Child Rights.¹³⁰ Eight training events took place in 2012, seven in 2013, and twenty in 2014.¹³¹ Most were two- or three-day events. Highly qualified international experts participated, together with national experts. It would be difficult to calculate the number of persons trained, since many officials participated in more than one event.

As indicated above, the Evaluation Team conducted a test of the results of training. The results are mixed. Most of the professionals tested (10 out of 14) agreed with the statement that “Persons under the age of 18 who commit crimes always deserve to be treated differently than adults, regardless the gravity of the crime, the reason for it, and the number of crimes they have committed.” This is a positive result, although the fact that 3 trained persons disagreed (one of them strongly) is reason for concern. Five persons agreed, and 5 more agreed completely, with the statement “Sometimes, behaviour such as running away from home or theft is a normal response to a situation beyond the child's control, and does not mean that the child is 'bad' or needs to be rehabilitated.” This is another positive result. The ‘test’ contained 4 questions on national law concerning detention before trial, the interrogation of juvenile suspects and diversion. Most of the professionals who had participated in training gave correct replies to three of the four questions. Most of the trained respondents also gave correct answers to the questions on international standards.

On the negative side, 10 of the 14 the respondents, including 3 of the 4 trainers, agreed that “Conducting medical examinations of girls in conflict with the law to determine whether they are virgins” ... “should be done to determine whether the girl has been victim of a crime.” Another negative result was that two of the four trainers replied, incorrectly, that the Convention on the Rights of the Child does not form part of the national legal order in Tajikistan.

¹³⁰ Two courses for lawyers also were organized, one in 2013 and one in 2014.

¹³¹ see Appendix 7

In conclusion, the training has had a positive impact on the knowledge and attitudes or values of the professionals trained, but it has not yet changed attitudes on some important issues and ignorance persists about some important legal issues.

Interviews with juvenile justice officials confirm that, for many of those in positions of responsibility in various parts of the system, the training obtained through project activities has had a valuable impact. Many officials are very knowledgeable and committed to child rights. The fact that the centre in Khojand is operating well is due in no small part to the training received by all relevant actors in the district and province.

The training component of the project was not limited to training events, but included the preparation of training materials, the introduction of training requirements and curricula into professional training programmes and institutions, and the preparation of qualified teams of national trainers.

A component on juvenile justice has been added to the curriculum for cadets in the police academy. Similar components have not yet been added to the curricula of the training institutes for judges, prosecutors and criminal investigators. A course on child rights has been added to the curriculum of the law faculty of Tajik National University, and a textbook has been prepared.

Training of social workers

Social workers have important roles to play in juvenile justice in Tajikistan, as in other countries. At present, they are the only staff of most community-based prevention centres, except for teachers. They are also staff of some of the Child Rights Units and Departments, and are employed by the Special School.

In 2005-2006, the University of Stockholm offered an intensive course on social work intended to prepare professors to staff a social work department at Tajik National University.¹³² Twenty-two persons completed the course, of whom 8 were given diplomas.¹³³ A social work programme was established at the university, within the Faculty of Philosophy, but it is not staffed by the persons trained by the University of Stockholm. Two key informants qualified in social work agreed that graduates of the programme lack the skills needed to be considered professional social workers.¹³⁴ Due to the low salaries of public servants, none of the small number of Tajik citizens who have obtained masters degrees in social work abroad practice or teach social work full-time.

¹³² This was supported through an earlier UNICEF project financed by the Swedish International Development Agency.

¹³³ Thematic Evaluation of UNICEF's Contribution to Juvenile Justice System Reform in Montenegro, Romania, Serbia and Tajikistan, UNICEF, Geneva, 2007, p.129

¹³⁴ The first class graduated in 2013.

Short, ad hoc training activities for persons employed as social workers began during the 2006-2009 Supporting Social Welfare and Child Protection Reform project,¹³⁵ and continued during the present project. In 2014, four training activities for social workers, ranging in length from one day to a week, took place.¹³⁶ A Dutch social worker who joined the UNICEF child protection team in 2012 participated in training, mentored social workers and developed manuals, guidelines, forms and other tools. Despite these efforts, all persons working as social workers in positions related to juvenile justice in Tajikistan are, in effect, paraprofessionals at best.¹³⁷ Moreover, the turnover of staff of the community-based prevention programmes is particularly high, which affects the value of training provided.

The Deputy Director of the Practical Training Unit for Social Work and Innovations, which re-opened in December 2014, informed the Evaluation Team that three levels of social work qualifications are recognised in Tajikistan, but no one is being trained at the middle or higher level. She also stated that there is no social worker in Tajikistan qualified to work with juvenile offenders and children with behavioural disorders.

Material assistance

In 2011, UNICEF financed the renovation of a special juvenile unit in the pre-trial detention centre in Dushanbe, one of six in the country. The renovated unit meets international standards as far as physical conditions are concerned, although ex-detainees continue to complain about lack of heating in winter, and the adjacent space for the daily 'walk' is not sufficient for organized physical exercise or sports. There are no organized activities of any kind (education, life-skills training, cultural or recreational activities) for detainees, who may be detained for up to 6 months.

Project funds were used to renovate and equip the 'child-friendly rooms' in trial courts. They also were used to renovate three Centres for Additional Education that hosted prevention programmes, two of which were later closed. And they were used to provide computers and other supplies to 11 "referral agencies" (courts, prosecutors offices, police offices and local commissions on child rights).

3. Law reform

The original project logframe called for making legislation "restorative to juveniles in conflict with the law", and for the adoption of a new Criminal Procedure Code. These aims were part of the component on making the juvenile justice system compliant with international norms. The revised logframe contained a more general aim of bringing legislation related to juvenile justice into "greater compliance" with international standards. It also called for the Criminal Procedure Code adopted shortly before the

¹³⁵ Supporting Social Welfare and Child Protection Reform with Innovative Approaches in Tajikistan: Final Report for the Swedish International Development Cooperation Agency, UNICEF, Dushanbe, 2010, pp.13-14

¹³⁶ see Appendix 7

¹³⁷ Some reportedly lack any training in social work.

project began to be amended, and for a new Criminal Code to be adopted. Neither logframe indicated what specific changes were needed to bring these Codes into compliance with international standards.

The Criminal Procedure Code adopted late in 2009 contained an article that seems to authorize diversion of first offenders accused of a minor offence. Article 432 allows prosecutors to dismiss charges and “apply informal correctional measures” if she or he determines that the offender “can be appropriately corrected without applying criminal punishment”, provided that child and his or her parents agree. A police investigator may do the same, with the approval of a prosecutor. The measures that may be imposed are those listed in Article 89(2) of the Criminal Code, namely: warning, payment of damages, placement under parental supervision or the supervision of the commission on child rights, or “limitation of leisure and special demands of conduct.” The National Plan of Action on Juvenile Justice 2010-2015, adopted while the Criminal Procedure Code was still in draft form, indicated that its “provisions on diversion need to be significantly strengthened in order to provide the police and prosecutors with the discretion to apply diversionary measures in all juvenile cases, rather than only in cases involving minor offences.” This has not been done.

Since the Code entered into force in 2010, opinions have been divided as to whether the law authorized diversion to the project centres or not. Some prosecutors say that the lack of express mention of the centres prevents diversion of offenders to them, while others consider that the discrepancy between the language of the two articles – Art.89(2) calls the measures “compulsory” while Art.432 calls them “informal” measures and requires consent – prevents diversion to them. Some prosecutors nevertheless do divert offenders to the centres, by placing the offender under the supervision of the local Commission on Child Rights (as per Art.89(2)b) with the understanding that it will refer the offender to a centre. Differing viewpoints as to whether these articles authorize diversion to a centre have persisted during the duration of the project, and no doubt contributed to the low number of offenders in the caseload of the centres.

It is not known whether the draft Criminal Code, when adopted, will eliminate this difficulty. Another possible solution, that may be implicit in the reference to amending the Criminal Procedure Code, would be to amend Art.432 to expressly authorize diversion to a centre.

The Mid-Term Evaluation made other specific recommendations regarding law reform, including:

- reduction of the duration of police custody without a court order to 24 hours;
- prohibition of the use of solitary confinement as a disciplinary measure;
- recognition of the confidentiality of legal proceedings concerning juveniles;
- elimination of the provision allowing convicted juveniles to be kept in pre-trial detention facilities for several months;
- recognition of an obligation to consider diversion and release from criminal responsibility in all cases in which it is allowed.

None of these changes to legislation have been made.

4. Residential facilities

For the reasons indicated above, the Evaluation Team decided to focus mainly on the two facilities that house the largest number of children and juveniles and to rely on information received from children and key informants familiar with conditions in them.

Some positive developments occurred in the juvenile prison colony, during the second half of the project. Vocational courses began to be offered, in painting, plumbing and welding.¹³⁸ A wider variety of sports and recreational activities (e.g. chess) were offered. Social workers employed by an NGO began to provide services in the prison, facilitated the release of some prisoners on condition that they perform community service, and helped released prisoners to re-enter the educational system.¹³⁹ A psychologist was hired, but left because of the conditions in which he was obliged to work, and has not been replaced.¹⁴⁰ The social workers also are no longer present in the prison.

The survey of children included interviews with 7 young men released after serving sentences in the juvenile prison. Most of them were sentenced for robbery or hooliganism, and were not reoffenders. All were employed at the time of the interviews, and reported that the time they spent in the prison had been beneficial. One explained “it is the right place, where you assess everything differently”. They were especially satisfied with school and teachers. One said “These are the best teachers, they not only give knowledge, they teach about life. These are people of the Soviet period, now there are almost none of them left.” Many changes were attributed to the appointment of a new director in 2013, who one ex-prisoner called a “good, humane and aware person”. He was replaced in 2014.

The infrastructure of the Special Vocational School was renovated in 2013.

The regime of the special school has not changed since the project began, but the survey of children who attended the school indicated that they viewed the experience as beneficial and enjoyable. This is in part due in part to the wide range of courses and activities offered, and to the attitude of the teachers and staff. One former student said:

Before getting there I thought that probably it would be like a prison, just the name “special school” causes such associations, but it proved out that it is better than the ordinary school. I did not see such caring director anywhere else. Every day I pray for him.

¹³⁸ This responds to recommendation 13 of the Mid-Term Evaluation

¹³⁹ Allowing community-based groups to offer services in the prison responds to Recommendation 13.

¹⁴⁰ The hiring of a psychologist responds to recommendation 13 of the Mid-Term Evaluation.

Another important development that concerns all the facilities mentioned above is the introduction of periodic monitoring by the Ombudsman's Department on the Rights of the Child.¹⁴¹ In 2013, the juvenile prison colony and the Special Vocational school were visited four times each, the special school was visited twice.¹⁴² A small number of complaints of abuse have been investigated, and some other changes (e.g. renovation of the Special Vocational School) have been made on recommendation of the Ombudsman.¹⁴³ A monitoring group composed of NGOs established in 2013 cooperates with the Office of the Ombudsman in monitoring facilities.¹⁴⁴ Many other changes needed to bring these facilities into conformity with international standards, have not taken place.

¹⁴¹ Formally the Department on State Protection of the Rights of the Child

¹⁴² Human Rights Commission, Report for 2013, p.317

¹⁴³ In 2013 the head of the juvenile prison was replaced following an investigation of a complaint of physical violence by staff, although the extent to which this was due to the investigation is unknown.

¹⁴⁴ The activities of the monitoring group are not limited to facilities for juveniles and children.

V. Replies to Evaluation Questions

Question 1. [Effectiveness] To what extent has the project contributed to the development of specialized juvenile justice system in line with international standards?

This is, in effect, two broad questions, each of which can only be answered by asking and answering a number of more specific questions. The first broad question is, to what extent has the project contributed to a juvenile justice system that is specialised? The second is, to what extent have changes made to the system brought it into greater compliance with international standards?

A system is specialised to the extent it has specialised personnel, institutions and norms. The main advance made in terms of specialisation was the appointment of specific judges to handle cases involving accused juveniles. Such judges were designated in 23 district and city courts, out of 76. They handle cases involving children and accused juveniles on a part-time basis. This is understandable, because the number of such cases is a small percentage of the total caseload of district courts. They do not handle all aspects of cases involving juvenile offenders - in particular they do not decide whether an accused juvenile is detained before trial. No special qualifications are required for appointment as specialised judges, although most of those appointed provided with training through the project.

Although many prosecutors and criminal investigators have received training during the project, there are no prosecutors especially designated to handle cases involving accused juveniles. In the capital there is small group of 3 criminal investigators specialised in crimes by juveniles. They handle cases arising in the capital and supervise the handling of cases involving accused juveniles arising in other areas. This is not a new development, however.

There is no law specifically on juvenile justice, but there are special norms concerning juveniles in the Criminal Code and Criminal Procedure Code, as well as the Code on the Execution of Sentences and some other relevant legislation. A new Criminal Procedure Code was adopted shortly before the project began; a new Criminal Code was drafted during the project, but has not yet been adopted. Amending the Criminal Procedure Code and adopting a new Criminal Code were both aims that have not yet been achieved. The Mid-Term Evaluation identified seven specific changes that should be made to the legislation to bring it into greater compliance with international standards; none of them have been made.¹⁴⁵

The institutional framework of the juvenile justice system is largely unchanged: there is one juvenile prison colony; only one specialised pre-trial detention unit for accused

¹⁴⁵ Recommendation 7 (Some of these recommendations had been made previously.)

juveniles; and one ‘special school’ where boys who commit offences while too young to be prosecuted may be sent,¹⁴⁶ and one ‘Special Vocational School’ for convicted offenders given ‘educational measures’ rather than a sentence. All of these facilities are for boys only. There is no probation department, and convicted juveniles given a suspended sentence are placed under the supervision of the prevention police. The most significant new development is the creation of “child-friendly facilities” with closed circuit video equipment in 4 courts.

There have been some important developments in institutions that do not form part of the juvenile justice system as such, including the creation of a Child Rights Department in the Office of the Commissioner for Human Rights. The project also included considerable capacity-building efforts that were not intended primarily to make changes in the system itself, but rather in the way it operates, that is, in the practice of judges, police officers, prosecutors and other juvenile justice professionals.

The second question thus becomes: to what extent has the appointment of specific judges to handle cases of accused juveniles in 23 districts and cities, and the creation of a specialised team in the office of the Ombudsman, brought the juvenile justice system into greater compliance with international standards?

The percentage of convicted juveniles given prison sentences during 2011, 2012 and 2013 was considerably lower than the percentage given prison sentences during the first year of the project.¹⁴⁷ Data on the sentencing of juveniles disaggregated by district are not available, but this may well mean that the training of judges and appointment of specific judges for juvenile cases – which was done in the districts with the highest number of juvenile cases – has led to greater respect for the “last resort” principle, one of the most important international standards.¹⁴⁸ In contrast, the number of juveniles detained prior to trial increased in 2012 and 2013, as compared to 2010-2011. In Tajikistan the judge who decides on pre-trial detention cannot try the same case, so judges appointed to handle cases of accused juveniles do not handle pre-trial issues. Consequently, the appointment of specific judges for juvenile cases has not had a positive impact on pre-trial detention.

Likewise, although it is not possible to quantify information about violations of the rights of juveniles during arrest and interrogation, interviews with informants did not suggest that there has been any notable decrease in violations of international standards on issues such as the right to have an attorney present during interrogation. Interviews with key informants suggest that some improvement in the treatment of prisoners in the juvenile prison colony occurred, but were the temporary result of the appointment of a Director interested in reform, who has since been replaced.

¹⁴⁶ The majority of students in the special school are children involved in anti-social behaviour.

¹⁴⁷ See Table 9, below

¹⁴⁸ The appointment of judges took place in March 2012, but an intensified programme of training judges took place in 2011.

Question 2. [Effectiveness] To what extent are the alternatives forms of justice and rehabilitation/prevention that the project aimed to establish operational, and to what extent have they reduced deprivation of liberty?

The establishment of community-based centres for the prevention of offending and for the prevention of re-offending by juveniles diverted from the formal justice system in effect became the main objective of the project, as explained above. Diversion is an alternative form of justice; participation in community-based projects for the prevention of re-offending is an alternative form of rehabilitation, and community-based projects for children at risk of offending are an alternative to traditional methods of prevention, such as 'registration' by the 'prevention police' and placement in the 'special school'.

Five centres were in existence when the project began. Seven more were established in 2010, and two were established in 2011, bringing the total to 14.¹⁴⁹ The new centres were located in Centres for Additional Education. The total caseload of the centres increased between 2005 and 2007, but declined in 2008 and 2009. It more than doubled in 2010, but by 2011 it was evident that the transfer of responsibility for operating the prevention programme to the Centres for Additional Education was in crisis. The Mid-Term Evaluation recommended that the original goal of establishing such centres in 32 districts be replaced by the goal of consolidating the functioning of the existing centres.¹⁵⁰ The revised logframe for 2012-2014 incorporated this recommendation, and a number of activities were undertaken with a view to consolidating the functioning of the existing centres. Nevertheless, the two original pilot centres closed in 2012, and 5 of the 7 centres opened in 2010 were closed in 2012. In 2014, the Centre for Additional Education in Dushanbe began to provide part of the services that the centres had been designed to provide, for all 4 districts located in the city.

It is difficult to assess the impact of the centres on the number of juveniles given prison sentences. The population of the juvenile prison colony increased in 2010 and again in 2011. It fell sharply in 2012, due largely to the release of many prisoners who benefitted from an amnesty late in 2011, but increased in 2013.¹⁵¹ The Evaluation Team was unable to obtain data on the population of this facility in 2014, prior to the amnesty in November.

Data on the caseload of community-based centres does not indicate how many children referred there could have been prosecuted, and how many were referred for reasons other than criminal behaviour, or for criminal behaviour by children too young to be prosecuted. The Office of the General Prosecutor provided data on "cases diverted to educational measures", but the number of cases "diverted" that led to the referral of an offender to the community-based centres is unknown.¹⁵² For these

¹⁴⁹ see Table 5, *supra*, for the districts where they were located

¹⁵⁰ Recommendation 1

¹⁵¹ see Table 2, *supra*

¹⁵² Diversion to educational measures could mean simply giving a warning, placement under parental supervision, compensation of the victim, or an agreement to accept certain conditions. Criminal Procedure

reasons, any inference as to a link between the prison population and the caseload of the centres would be speculative.

Table 7

	2006	2007	2008	2009	2010	2011	2012	2013-2014 [#]
Diversion to education measures	75	100	72	91	41	94	68	16

Since pre-trial detention should not last more than 6 months, and because accused juveniles detained in some parts of the country are not confined in the only juvenile detention unit that exists, the number of juveniles for whom detention is ordered is a more relevant indicator than the population at a given date. The number of detention orders adopted in 2011 was lower than in 2010, but increased in 2012 and again in 2013. (See Table 4, supra)

The population of the Special School nearly doubled in 2011, and increased again in 2012. (see Table 3, supra) It fell sharply in 2013 and fell again in 2014, to approximately the same level as the year before the project began. Although the recent decline in the population of the school is a positive development, the data does not indicate that the project has had reduced the number of children placed in this facility.

In conclusion, available data on diversion to the prevention centres that the programme aimed to establish does not allow any conclusion as to their impact on deprivation of liberty of juvenile offenders. The number of cases diverted by prosecutors - whether to a community-based centre or otherwise - declined during the project.¹⁵³ There was no sustained reduction of the number of accused juveniles deprived of liberty before trial.

Question 3. [Effectiveness] To what extent have the project aims regarding the prevention of offending and re-offending been achieved?

On the national level, reported offending by juveniles declined during the first 2 years of the project, but increased in 2012 and 2013.¹⁵⁴ Data disaggregated by district is available only for Dushanbe and one other district in which a community-based centre was established. The following Table shows the number of reported offences in the

Code Art.432 and Criminal Code Art.89. The number of cases diverted is larger than the total caseload of the community-based centres for the years 2006 to 2009, which confirms that not all of the “cases diverted” are diverted to the centres.

[#] data for 2014 covers 10 months

¹⁵³ The average number of cases diverted during 2006 to 2009 was 85 per year, as compared to 68 per year 2010-2012. In December 2014, the Office of the General Prosecutor provided the Evaluation Team with data indicating that the number of juveniles diverted in 2013 and 2014 fell sharply. Table 7, supra. The data was received too late to inquire into the reasons for this decline.

¹⁵⁴ Table 1, supra

districts for which data is available, for the project years these centres were open. The caseload of the centres also is presented, to give the reader an idea of the extent to which the centres were actually operational in the relevant years.

Table 8. Offending in districts having community-based centres 2009-2013

	2009	2010	2011	2012	2013
Sino 1 and 2: offences	104	44	30	53	51
caseload	11	14	2 (6 months)	closed	Closed
Firdavsi: offences	88	92	82	91	77
caseload	3	n/a	1 (6 months)	closed	Closed
Rasht: offences	4	22	6	10	6
caseload	not open	n/a	16	closed	Closed

Offending in the two Sino districts fell sharply during the first two years of the project. It increased in 2012 and 2013, after the community-based centre was closed, but the number of offences reported in these years was still only half the level reported in 2009, when the centre was operational. This can be interpreted as weak evidence that the activities of the centre may have helped to reduce offending in 2010 and 2011. In Firdavsi, offending reached its lowest level the year after the centre closed, which suggests that the activities of the centre had no beneficial impact on offending in the district. In Rasht, offending was highest in the year the centre was opened, and low the year before it opened and the year after it closed. The data thus do not support the conclusion that the activities of the centre had a beneficial impact on offending by juveniles in Rasht district.

The Commission on Child Rights in Khujand, the second largest city in Tajikistan, reported that offending by juveniles decreased from 70 cases in 2009 to 30 cases in 2013. This may be seen as evidence that the model used in Khujand is more effective than the model used in other areas. This conclusion must remain tentative, in the absence of data on offending in districts where other centres using the alternative model are operating. It may be that the lack of beneficial impact of the centres in Sino, Firdavsi and Rasht is simply due to the fact that they were not being operated properly.

No reliable data on reoffending is available, which prevents analysis of the impact of the project on reoffending.

The aims of the project concerning the prevention of offending and reoffending other than through the centres mentioned above changed during the project. Originally, the project aimed to establish 'early intervention' programmes in schools in 32 districts, and to organise outreach (i.e. non-residential) programmes in both of the Ministry of

Interior's Reception and Referral Centres. Both of these aims were omitted from the revised logframe.

The centre in Sino district promoted and cooperated with delinquency prevention programmes in four secondary schools located in the district. These programmes did not survive the closure of the Sino centre. A representative of the Commission on Child Rights in Khujand informed the Evaluation Team that schools in Khujand also are making an effort to intervene in cases where there are signs that a student may be at risk of offending, and are trying to recruit psychologists for every school. This initiative has not been supported by UNICEF, but appears to be an indirect result of capacity-building supported by the project.

The Temporary Isolation Centres never started to offer the kind of outreach foreseen, and the Mid-Term Evaluation recommended that this aim be dropped, in part because community-based prevention centres existed in both of the cities where Temporary Isolation Centres were located.

Question 4. [Effectiveness] What were the most important factors that influenced the achievement or non-achievement of the objectives?

The aim of ensuring that "specialised" judges be assigned to handle juvenile cases in 15 courts was surpassed, in essence, although there is no requirement regarding the qualifications or training that the judges appointed must have and they do not handle all aspects of juvenile cases. The idea of creating one juvenile court in Dushanbe, where approximately one-third of all offending by juveniles occurs, seems to have been forgotten. The appointment of these juvenile judges in 2012 appears to have had a positive impact on the sentencing of convicted juveniles, as indicated in Part II.

The aim of reinforcing the monitoring of the rights of juvenile suspects, accused juveniles and juvenile detainees and prisoners was partially met, by the creation of the Child Rights Department of the Office of the Ombudsman. In 2012 three children were released from the Special School thanks to monitoring the legality of placement by the General Prosecutor's Office, but there is no evidence of increased efforts to monitor of the rights of children in other facilities.

Some key informants expressed the opinion that violations of the rights of juvenile suspects and accused juveniles have decreased, but others did not see any significant improvement in, for example, respect for the right to prompt legal assistance and the right of suspects to remain silent. This may be due to the fact that specialisation of juvenile justice professionals has been largely limited to judges.¹⁵⁵

No significant, enduring changes have taken place in conditions in the juvenile prison colony or the treatment of prisoners. The infrastructure of the juvenile unit of the pre-trial detention centre in Dushanbe and Special Vocational School have been

¹⁵⁵ The 'prevention police' have a very limited role in the juvenile justice system as such.

renovated, but the school has not been converted into an open or semi-open facility, as recommended as early as 2005, and no new services or programmes have been introduced for juveniles in the detention centre.

The number of community-based prevention programmes operational at the end of the project was half the number envisaged by the revised logframe. This is not a significant failure, in the opinion of the Evaluation Team. A more significant shortcoming is that only one of the community-based programmes now operational provides the kind of services offered by the pilot project that inspired the present project.

None of the planned or recommended law reform has taken place to date.

One of the main reasons for the achievements that have been made, is the quality of the training provided by the international experts used by UNICEF and the intensive use of these experts. Two of them also participated in advocacy, particularly in the justice sector. Another main reason for the accomplishments achieved is the professionalism and commitment shown by some key counterparts, especially in the Council of Justice. Events such as the 2011 Central Asian Forum on Juvenile Justice and the 2013 study visit to Switzerland – especially the latter - had a positive impact on the commitment of some key counterparts. The participation of the Office of the Ombudsman in the UNICEF regional project on torture and ill-treatment in juvenile justice helped make the environment in which the juvenile justice project was implemented more open. The flexibility of the UNICEF Child Protection team in adjusting the aims of the project in light of the obstacles and difficulties encountered also helped to ensure that some positive results were achieved.

One of the main obstacles to achievement of the project goals was the disinterest and lack of commitment of key counterparts, in particular the Ministry of Education. The 2011 Mid-term Evaluation stated:

Unfortunately, the officials of the Ministry of Education interviewed... were not only ignorant of these difficulties [concerning implementation of prevention through the Centres for Additional Education], but showed no concern. No visible progress has been made towards putting into practice the idea that the Ministry will monitor and inspect the quality of the services provided by the Centres on the district level.

This lack of commitment to implementation of the programme continued and is the main reason for the limited achievement of the goal of establishing a network of community-based prevention centres. When interviewed during the final evaluation mission, the Deputy Minister stated that some of the recommendations concerning obstacles to implementation of this component of the project (such as amending the regulations of the Centres for Additional Education and opening bank accounts for them) would soon be implemented, and made accusations regarding UNICEF's management of the project that were inaccurate and unfounded. She did not reply to

the question of why the alleged shortcomings on the part of UNICEF were not raised during the mid-term evaluation or, indeed, before the project was scheduled to end.

The views of the Ministry on the prevention of offending appear to be the reason that the goal of introducing early intervention in schools was abandoned. In the words of the mid-term evaluation:

Officials of the Ministry of Education seemed to believe that prevention in schools consists mainly of cooperation with the juvenile police and ensuring that the curricula fosters values such as patriotism and respect for parents.... The survey of children referred to community-based centres suggests that... conditions in the schools have actually contributed to offending.

The situation described in 2011 has not changed. The survey of children carried out as part of this evaluation included an interview with a convicted student who spent 9 months in the juvenile prison colony. On release, the head of his school not only refused to re-admit him, but made a speech to the student body on the dangers of offending, naming this boy as an example. This violation of privacy caused the boy's sister such shame that she stopped attending the school. This shows one of the ways that schools, far from preventing offending, contribute to it.

Another obstacle to achievement of the goals of the project is the high turnover of the staff of certain facilities, including the prevention centres based in the Centres for Additional Education and the juvenile prison colony. In our view, high turnover reflects an underlying and more serious obstacle, namely, the poor motivation of the many of the staff assigned to these institutions. Tajikistan is the poorest country in Central Asia, and salaries of public servants are low. Nepotism, favouritism and corruption are serious problems.¹⁵⁶ Efforts to prevent offending will not be successful unless a serious effort is made to select and assign committed public servants to the relevant programmes and institutions. The dedication and commitment of many of the officials interviewed, including judges, prosecutors, criminal investigators, social workers and educators - shows that this can be achieved, if the political will exists.

Question 5. [Effectiveness] Did the project produce any unintended results at the systems level?

The project was intended to improve bring the juvenile justice system into greater compliance with international standards, and prevent offending and reoffending by juveniles. Several initiatives also have had a positive impact on the treatment of child victims of crime. They include the training of judges, prosecutors and police officers, and the opening of "child-friendly facilities" in four courts.

Similarly, the creation of the Ombudsman's Child Rights Department has created a new mechanism for the protection of the rights of children. Most of the complaints

¹⁵⁶ In 2013 Transparency International ranked Tajikistan 154th out of 176 countries. Corruption Perception Index. 2013, p.8 <http://www.transparency.org/cpi2013/results#myAnchor1>

handled concern the right to education and enforcement of judicial orders concerning family matters.

Question 6. [Relevance] How relevant was the project's approach to juvenile justice reform to meeting the following aims: a. ensuring that treatment of juveniles suspected, accused or convicted of a criminal offence is compliant with the CRC and other relevant international standards; b. ensuring that treatment of children under the age of 14 involved in offending or 'anti-social behaviour' is compliant with the CRC and other relevant international standards; c. preventing offending and reoffending by juveniles?

a) The project's approach, in particular the combination of law reform, training, monitoring and support for legal and social assistance, was fairly well adapted to ensuring treatment compliant with international norms of juvenile suspects, accused juveniles and convicted juveniles. The main exception concerns the treatment of accused juveniles in detention. The project did not have a holistic approach to this issue. It failed to address the services available in the only specialised juvenile unit that exists, as well the situation of the accused juveniles outside of Dushanbe and accused girls, both of whom are detained in adult facilities.

b) The project's approach to ensuring treatment compliant with international norms of younger children involved in crime or anti-social behaviour had gaps. The project did not address practices within the school system that contribute to offending, such as discrimination against poor children and the expulsion of children with behavioural problems.¹⁵⁷ The goal of introducing 'early intervention' in the school system was abandoned, after a promising start in one district. Some progress was made in controlling admission to the Special School before the project began, but the creation of community-based prevention centres did not reduce the number of children placed in the School.¹⁵⁸ Extensive training of the prevention police did not substantially modify their role or the working methods used with children at risk and younger offenders. Children may still be confined in Reception and Referral Centres for up to 30 days by decision of the police. The practice of routinely examining girls placed in these centres to determine whether or not their virginity is intact, once thought to have been eliminated, still exists. This is a serious and arbitrary violation of privacy that can be considered ill-treatment and discrimination.

c) The model for community-based prevention of offending and re-offending upon which the project was based was a good one. There were, however, gaps in the project's approach to the prevention of offending and reoffending. The project did not address the need to develop an approach to the prevention of re-offending in the

¹⁵⁷ These problems contribute to the referral of children who are not offenders to the community-based prevention centres. See the report of the survey of beneficiaries annexed to the 2011 Mid-Term Evaluation; see also the 2013 Report of the Ombudsman, pp.323-4

¹⁵⁸ See Table 3, supra

juvenile prison colony.¹⁵⁹ Another was that the emphasis on community-based centres ignored the possibility of strengthen community-based prevention through the provision of services not involving referral to a centre, for offenders given alternative sentences or educational measures.

Question 7. [Relevance] To what extent were the main obstacles to the realization of these goals identified, and to what extent did the planned activities appropriately address them?

a. ensuring treatment of juvenile suspects and accused and convicted juveniles that is compliant with international standards

No changes in the legislation relevant to the treatment of juvenile offenders were made during the project. The Evaluation Team was not able to discover any specific reason for this. The persistence of traditional socio-cultural values that see respect for the human rights of offenders and 'bad' children as a weakness is no doubt part of the underlying reason. The response of UNICEF was to intensify training by international experts and advocacy, including the field visit to Switzerland. These activities contributed to greater receptivity to law reform on the part of some key counterparts, but it is not possible to predict whether their impact will be sufficient to ensure approval of most or all of the amendments to legislation that are needed.

Some practices that violate international standards also violate national law. Examples include the use of force or threats to obtain information or confessions from suspects, questioning suspects in the absence of their parents and a lawyer, and the detention before trial of juveniles accused of minor offences. Reliable information on the incidence of such practices does not exist, but a survey of the experiences of children carried out in 2012 confirms that these practices continued at that time.¹⁶⁰ Interviews with key informants confirm that they continue until the present.¹⁶¹ The reasons for this appear to be disbelief in the ethical values underlying human rights and reliance on traditional methods of law enforcement. The approach adopted in response to these problems, training and strengthening of monitoring, was appropriate.

b. Respect/non-respect for the rights of children under the age of 14 involved in offending or 'anti-social behaviour'.

The project had no goals specific to children under the age of 14 involved in criminal or anti-social behaviour. However, some goals - in particular the strengthening of programmes for the prevention of offending and training of the prevention police, who are responsible for 'registering' and supervising such children - concerned this category of children more than goals that were relevant to the procedures and

¹⁵⁹ All the 14 juvenile justice professionals who participated in focus groups discussions agreed that the services available in the juvenile prison colony do not help prevent reoffending.

¹⁶⁰ Torture and Ill-Treatment in the Context of Juvenile Justice in Tajikistan: Report on the results of legislation and practice review, Dushanbe, Centre for Child Rights, undated mimeo

¹⁶¹ See also the 2013 Report of the Ombudsman, pp.261-2, 265, 271 and 319-20

treatment of children old enough to be prosecuted. Reducing the placement of children under the age of 14 in the Special School for reasons related to involvement or perceived risk of involvement in criminal activity also was an implicit goal.

Data on the caseloads of the community-based prevention centres are not disaggregated by the age of the children referred to them. However, anecdotal evidence suggests that many of the children referred to them are children under the age of 14 involved in anti-social behaviour. Two surveys of the experiences and opinions of children who attended such centres were conducted, one in 2011 as part of the Mid-term Evaluation and one as part of the present Evaluation. The first survey covered a sample of boys and girls who attended the centres in Sino district, Dushanbe and Khujand; the second, boys and girls who had attended the centre in Khujand and who were attending the new centre in Dushanbe.¹⁶² Both surveys found that the experience had been a positive one for almost all children.¹⁶³ Record-keeping was poor, but suggests that some 549 children (below and above the age of 14) attended one of the centres that was open during 2010-2014. To put this in perspective, the number of children referred to these centres represents some 1.4% of the children 'in contact with the police' during these years.¹⁶⁴

The main obstacle to the realization of the goal of establishing a large network of community-based centres to provide preventive services to children at risk under the age of 14 is the same obstacle that affected the realisation of the goal of establishing a network of community-based centres for diversion and prevention of reoffending by offenders over the age of 14, namely, the lack of commitment on the part of the governmental bodies responsible for operating and monitoring the operation of these centres.¹⁶⁵ This obstacle was partially recognized, and the attempts to respond to it – described elsewhere in this report - were energetic and partly successful. The nature of this obstacle was not fully appreciated, however, which led to efforts to resolve consequences of this factor (e.g. administrative bottlenecks, high turnover of staff) without recognizing the underlying cause. This had limited effectiveness.

The project had no aims regarding the treatment of children placed in the Special School. The aim of reducing placement in the special school was not met. The number of children admitted to this facility was substantially higher in 2010, 2011 and 2012, compared to 2009.¹⁶⁶ In 2014, the population of the school was almost identical to the population in 2009. The reasons for failure to meet this goal are varied. They include the adoption of a new law making parents criminally responsible for the conduct of

¹⁶² Parents and care-takers also were surveyed.

¹⁶³ See Appendix 6 for the report of the 2014 Survey

¹⁶⁴ The TransMonee database for 2014 contains data on children in conflict with the police for 2010 and 2011 only (a total of 19,591).

¹⁶⁵ The obstacle regarding the uncertainty of the legal basis for diverting offenders applied only to the capacity of these centres to provide services for older children.

¹⁶⁶ 19 in 2009, 31 in 2010, 28 in 2011, 27 in 2012, 19 in 2013, and 18 during the first 9 months of 2014.

children;¹⁶⁷ the deterioration of the national economy; the increasing number of parents working abroad; poor conditions, discrimination and lack of tolerance in ordinary schools; and non-compliance with proper legal procedures for placement in the school. Some of these obstacles, such as the negative consequences of the law on parental responsibility and non-compliance with proper legal procedures for placement, were recognised and efforts were made to address them. These efforts had some success, particularly in regard to monitoring compliance with procedures for placement. Some of the obstacles, in particular the prevalence in ordinary schools of conditions and policies that led parents to see the special school as a desirable alternative for their children, were not sufficiently recognised, and the efforts made to address them were localised and fragile. Other reasons for the failure to reduce the population of the special school, such as the deterioration of the national economy, were well beyond the scope of this project.

The 2014 survey also looked at the treatment of children by the prevention police, whose mandate includes monitoring the behaviour of children under the age of 14 involved in anti-social behaviour or crime. The survey found that most children who reportedly were 'registered' with the prevention police actually had no contact with them. This suggests that the project had little or no impact on the way children under the age of 14 are treated by the prevention police, in this particular context. Efforts were made to train the police officers responsible for the Reception and Referral Centres where children at risk, including children under 14 years of age, can be held for up to 30 days. The training reportedly resulted in more rapid return of many children to their families. However, no effort was made to change the norm that allows deprivation of liberty for up to 30 days on broad, vague grounds without a court order, and efforts by UNICEF to eliminate the practice of virginity testing of girls were unsuccessful.

c. prevention of offending and reoffending by juveniles

As indicated in Table 1, offending by juveniles declined during the first year of the project, but increased in 2011, and increased sharply in 2012 and 2013. In 2013, the number of recorded offences by juveniles was higher than it had been any year since 1996.¹⁶⁸ The fact that the project did not reduce offending does not necessarily mean that the approach was inappropriate; in theory it is possible that the approach was appropriate but the expected result was not obtained because implementation was poor, or because unanticipated social or economic developments offset the positive results of project activities.

¹⁶⁷ Law of the Republic of Tajikistan on Responsibilities of Parents in Education and Upbringing of Children, No.762 of 2011

¹⁶⁸ TransMonee, 2014 (The Head of the Legal Department of the Presidency suggested that the real number of offences may not have increased so dramatically, and the increase in reported offences may be due in part to increased confidence in the police.)

The total number of registered crimes increased by 34% between 2009 and 2012 – the same period when offending by juveniles increased 60%.¹⁶⁹ The percentage of all crimes that is committed by juveniles also increased during this period, from 3.4% to 4%. This suggests that, while social and economic factors contributed to an increase in offending during the project years for which data is available, the project did not mitigate the impact of these factors on children. It is possible that data on offending are not reliable, but the reported increase is so large that it is unlikely that the data are so unreliable as to invalidate the conclusion that offending by juveniles did increase.

Offending in Khujand, the second largest city in Tajikistan and the district in which the project was most successfully implemented, reportedly decreased by more than half between 2009 and 2013.¹⁷⁰ This suggests that the project design was capable of reducing offending, and that weak implementation was the main reason it did not reduce offending.

The Evaluation Team was informed that some data on reoffending exists, but was no such data was provided. It therefore is not possible to draw any conclusion on the impact of the project on reoffending.

Question 8. [Relevance] To what extent did the selected JJAP project locations correspond to the geographical incidence of juvenile offending?

The first two pilot community-based centres, established several years before the project began, were located in the districts of Dushanbe which, at that time, had the highest incidence of offending. Khujand, where the third community-based centre was opened in 2007, reportedly had the highest incidence of offending outside of Dushanbe.

Unfortunately, the data on offending by juveniles provided to the Evaluation Team is disaggregated by province and region, but is disaggregated by district only for the Districts of Republican Subordination. Most of the ten centres established during the project were located in other regions. Data on offending is available only for the district of Rasht, where a centre was opened in 2010 and closed in 2013. In 2009, the year before the Rasht centre was opened, the number of reported offences by juveniles was higher in nine of the 14 Districts of Republican Subordination. The number of offences in Rasht was especially low that year; over the three year period that this centre was open the average number of offences in Rasht was similar to that of most of the Districts of Republican Supervision.¹⁷¹

The opening a centre covering all four districts in Dushanbe in 2014 was, of course, warranted by the number of offences by juveniles committed in the capital. The

¹⁶⁹ TransMonee, 2014

¹⁷⁰ Interview with the head of the Commission on Child Rights.

¹⁷¹ See Table 8, supra

percentage of all reported offences by juveniles fluctuates between one-quarter and one-third of all offences by juveniles in Tajikistan.

The lack of data on offending disaggregated by district for the whole country makes it impossible to provide a clearer answer to this question.

Question 9. [Relevance] To what extent were the child beneficiaries of JJAP centres (a) juvenile suspects diverted from the juvenile justice system or (b) younger children referred by the police, school or CRC for preventive purposes?

The Evaluation Team was unable to obtain any reliable data on the reasons for referrals to the centres during the project, for the reasons explained on p.41 of this Report.

Question 10. [Relevance] To what extent were UNICEF's JJAP interventions in line with the broader rule of law and justice sector reform agendas?

The project was complementary to some other rule of law/justice sector reform programmes. The UNDP's Rule of Law and Access to Justice Programme aims to strengthen the capacity of family law judges and improve the quality of legal aid services for vulnerable groups.¹⁷² This programme, which began in 2013, is financed in part by the Swiss Agency for Development and Cooperation and based in part on an earlier SDC funded access to justice project. "At-risk youth" are one of the vulnerable groups targeted.

Penal Reform International has a project in Tajikistan, Kyrgyzstan and Kazakhstan that includes training of prison staff, training of the staff of ombuds offices, and support for reforms of criminal legislation. The American Bar Association's Rule of Law Initiative supports training of defence lawyers.

Question 11. [Relevance] To what extent was the project in line with government priorities and strategies?

The project, which was designed in 2009, was based on the National Plan of Action (NPA) for Juvenile Justice System Reform 2010-2015. In this sense, it was very much in line with government plans.

The government also has made some significant commitments that are in line with the aims of the project, in response to recommendations of UN human rights bodies. An Action Plan to Combat Torture was adopted in 2013 in response to the recommendations of the UN Special Rapporteur on Torture, the Human Rights Committee, the Committee Against Torture and the recommendations of UN Human Rights Council.¹⁷³

¹⁷² Other aims include raising legal awareness of vulnerable groups and encouraging government-civil society dialogue on Rule of Law issues.

¹⁷³ Report of the Human Rights Commission, 2013, pp.260, 265-6

Commitments of this kind do not necessarily mean that the project was in line with the priorities of the main implementing partners, such as the Ministry of Justice, Ministry of Interior, the Ministry of Education and the Council of Justice.

A National Strategy for Educational Development was adopted in June 2012. It calls for the “development of supplemental education system for children as a tool to respond to individual needs of students and socialization of children and teenagers, including the ones from risk groups. However, the Deputy Minister of Education recognised that the development of school system as such is the Ministry’s main priority.

Question 12. [Effectiveness] To what extent and in what ways has national/local ownership of the JJAP, or the lack of it, impacted on the effectiveness of the project?

The project was based on the National Plan of Action for Juvenile Justice System Reform 2010-2015, which gives rise to a presumption of government ownership at the national level. However, some of difficulties that arose in implementation, and the failure to overcome them, are evidence that, in reality, the ownership was limited.

During the first few years of the project, difficulties in implementing the community-based prevention centres component were attributed to the inability of the Ministry of Education to hire the social workers, lawyers and psychologists needed to provide the interdisciplinary package of services provided by the pilot projects. The National Strategy for Educational Development, adopted in June 2012, calls for the “development of supplemental education system for children as a tool to respond to individual needs of students and socialization of children and teenagers, including the ones from risk groups”, and the “opening [of] new pedagogical specialties [including] teacher-psychologist....”. Despite this, the administrative obstacles to hiring the kind of staff the centres had before transfer of responsibility to the Ministry were still in place when the project ended in September 2014.

The falling number of referrals to the community-based prevention centres, which began even before the start of the present project, was attributed in part to gaps and contradictions in certain articles of the Criminal Code and Criminal Procedure Code. The goal of amending these laws to eliminate this problem was identified at the beginning of the project, but never achieved. This also raises doubts as to the degree of ownership on the national level.

The willingness of senior officials to meet with the Evaluation Team also can be seen as an indicator of government ownership. The Evaluation Team met with the Deputy Chair of the Council of Justice, the Deputy Minister for Education, and the Head of the Legal Department of the Presidency. The meetings with the advisor to the president and representative Council of Justice confirmed strong interest in the project, and in continuing to work with UNICEF on children’s access to justice. In contrast, requested meetings with Deputy Minister of Justice, the Deputy Minister of the Interior, and the

deputy head of the General Board of Execution of Criminal Sentences (correctional department) did not take place. The consultant who prepared the mid-term evaluation in 2011 also was unable to meet with any high-ranking official of the Ministry of Justice or the national Commission on Child Rights, two of the project's main counterparts.

In conclusion, there was no consistent position with regard to "ownership" on the national level; some counterparts demonstrated more ownership than others.

Ownership on the local level was most relevant for Khujand, where one community-based prevention centre was transferred to the local authorities. The centre remained open and provides quality services to a relatively large number of offenders and children at risk, with most of the budget provided by the local government. Meetings with representatives of the district and provincial Commissions on Minors confirmed their strong sense of ownership of the centre.

Question 13. [Relevance] To what extent was the project feasible within the resources available to the public system?

Tajikistan is the poorest country in Central Asia and, indeed, in the former USSR. Poverty clearly has an impact on the juvenile justice system and efforts to reform it. Low wages no doubt explain the poor motivation shown by some public employees, as well the influence of bribery and favouritism on the way some juvenile justice employees carry out their duties. If Tajikistan were a wealthier country, it might be easier to overcome such obstacles to juvenile justice reform. On the other hand, in some parts of the juvenile justice system there are dedicated professionals who empathise with the children who come before them, who perform their duties to the best of their ability, and who strive to improve their knowledge and skills. This leads us to conclude that it is institutional culture, more than lack of resources, that has prevented the proper implementation of some parts of the project.

The evaluation team found no reason to consider lack of resources as one of the main reasons for any of the difficulties that had an adverse effect on implementation of the project. Only one of the eleven juvenile justice professionals who received training during the project indicated that the lack of resources limited his or her "ability to put into practice the knowledge, skills or ideas learned during training". Investments made by some ministries and other governmental bodies in areas related to juvenile justice also support the conclusion that lack of resources was not a primary reason for the difficulties that affected implementation of the project. The new child rights departments funded by the Office of the Ombudsman and Ministry of Justice are two examples. Similarly, in 2013 the number of judges was increased by 22, 30 other posts were created in the court system, and a number of websites were created to give the public greater access to information on the judicial system.¹⁷⁴

¹⁷⁴ Report of the Human Rights Commissioner, 2013, pp.268, 270

Question 14. [Effectiveness] To what extent did the capacity-building component of the project change the knowledge, attitudes and practices of these critical public servants with respect to the targeted behavioural changes?

This is a complex question for several reasons: it applies to several different professional groups, the targeted behavioural changes were not expressly defined, and some changes that were implicitly targeted are broad. The answer to this question therefore focuses on some of the most basic changes for most relevant professional groups.

In so far as the police are concerned, one of the most important targets presumably would have been increased referrals of children at risk and diversion of eligible offenders to community-based centres. During the project the total caseload of the centres has been consistently higher than at any previous time, even after the closure of 7 centres in 2012-2013. The lack of data on the reason for referral and identity of the authorities that refer children to the centres makes it impossible to know to what extent the police are responsible for this development, but it seems certain that they were partly responsible.

Another implicit target would be a decrease in the incidence of physical and verbal violence and other mistreatment of juvenile suspects and children taken into custody in raids. The incidence of these practices is impossible to quantify, but anecdotal evidence provided by key informants suggests that no major changes have occurred. The practice of examining girls taken into custody to determine whether they are virgins, a serious violation of human rights, continues.

In so far as prosecutors are concerned, one target was an increase in the diversion to community-based centres of juveniles who admit to participation in minor crimes. The number of cases diverted - the data does not specify if they were diverted to community-based centres or other educational measures – fell by more than half in 2010, increased by more than half in 2011, and fell by 28% in 2012.¹⁷⁵ In 2013 and 2014 the number of juvenile offenders diverted fell very sharply, confirming that this target was not met.

Prosecutors and judges have joint responsibility for another target, reduced use of detention prior to trial. The number of detention orders made fell in 2011, but increased in 2012 and 2013. The percentage of cases “sent to court” (i.e. prosecuted) in which a pre-trial detention order was made fell in 2011 and increased slightly in 2012, but remained below the percentage in 2010.¹⁷⁶ The Evaluation Team was unable to obtain data on the number of pre-trial detention orders made in 2013, which again makes it impossible to state unequivocally the extent to which this goal was met.

¹⁷⁵ Table 7, supra. (The same pattern applies to cases diverted as percentage of cases opened.)

¹⁷⁶ 13% in 2010; 10% in 2011, 11% in 2012, and no data for 2009 or 2013.

A third implicit target for prosecutors would be a decrease in violations of the rights of suspects, especially during interrogation. Interrogation is carried out by criminal investigators who are under the control of prosecutors. Training of the police focused mainly on prevention police, but later broadened to include investigators. Anecdotal evidence does not suggest any major changes in this indicator, as indicated above.

In so far as judges are concerned, a decrease in the use of prison sentences, especially for first offenders convicted of crimes of minor or medium gravity, was a tacit target. The data on sentencing available is not disaggregated so as to permit analysis of the correlation between sentences and the gravity of the crime, or recidivism. The number and percentage of convicted juveniles given prison sentences was high during the first year of the project, compared to earlier years.¹⁷⁷ The number and percentage declined subsequently, although both remain higher than during the years before the project. The decrease in the years 2011 to 2014 comes despite significant increases in both offending and convictions.¹⁷⁸

The provision of more effective assistance to children at risk and offenders by social workers and by prison staff – two of the groups that participated in training - would be expected to have a beneficial impact on rates of offending and re-offending by children who benefitted from preventive/rehabilitation programmes. The local authorities in one city (Khujand) reported a decrease of more than 50% during the project, and attributed this to the activities of the social workers, including those attached to the local Child Rights Unit, and the interdisciplinary staff of community-based centre. Data on offending in three other districts where community-based prevention centres were open during the project is ambivalent, as indicated above,¹⁷⁹ and national data on offending indicates a significant increase in offending during the project, especially from 2011 to 2013. This suggests that, in general, training of those involved in prevention has not resulted in a significant improvement in the effectiveness of their interventions.

Four members of a focus group of professionals who participated in one or more project training activities indicated (in response to the confidential questionnaire) that the training “had made a significant difference in the way I perform my professional duties”. Two more indicated that the training had made “some difference” in the way they perform their duties, and none indicated that the training made no difference in the way they carried out their duties.

In conclusion, there is some evidence that the training of judges has had a positive impact on the way that they handle cases involving juvenile offenders. There also is strong evidence that the training of social workers has had a positive impact on offending, but this evidence is limited to one locality and may not be representative. Evidence of any positive impact of the training of prosecutors is mixed, and there is

¹⁷⁷ Table 9, below

¹⁷⁸ Table 1, supra

¹⁷⁹ See Table 8 and the following paragraph

little evidence of a positive impact on the practice of prevention police, criminal investigators or staff of the juvenile prison colony or the juvenile detention unit.

Question 15. [Efficiency] Did the project explore all possible delivery alternatives and was the choice to work with CAEs a justified, evidence-based one? Were there ways to achieve the same results with fewer resources?

The first three community-based prevention centres created before the present project began were operated by local NGOs and financed by international donors. This was not a sustainable option. In 2009-2010, one of the pilot centres was closed and re-opened under the administration of the local authorities (*khukumat*). Two new centres based in CAE and “managed by local authorities” were opened in 2008 and 2009.¹⁸⁰ This meant that the CAE provided the physical infrastructure for centres for the prevention of offending and reoffending and children referred for this purpose could participate in the classes offered by the CAE, and UNICEF funded, through the local government, the social workers, psychologists and lawyers who provided additional services related to the prevention of offending and reoffending.

The only alternative that was considered was to strengthen the capacity of the Child Rights Units and Departments to provide preventive services.¹⁸¹ This alternative was rejected, for reasons that the Evaluation Team has been unable to determine.¹⁸²

The decision to rely on the CAEs to implement the community-based prevention component of the project was evidence-based to some extent. Community-based prevention centres based in CAEs had been operating in two districts in Sughd province for two to three years, and both of them continue to operate today.

Responsibility for coordination and supervision of the process of transferring responsibility for these centres to the government and taking this component to scale was divided between the national Commission on Child Rights and the Ministry of Education. Both neglected this responsibility, and this could have been anticipated. The unwillingness of the Ministry to reform the juvenile justice institutions under its direct control, especially the Special Vocational School, was evident before the project began, and should have been seen as a warning sign.¹⁸³ The limited capacity of the Commission to effectively coordinate the functioning of a network of community-based centres also should have been anticipated. That said, the weakness of the Commission would have affected monitoring and coordination of this project component whether or not these functions were shared with the Ministry of Education,

¹⁸⁰ Final Report of the 2006-2009 Supporting Social Welfare and Child Protection Reform Project, p.14

¹⁸¹ The 2008 evaluation of the five pilot centres for the prevention of offending and reoffending recommended that “the model be implemented nationwide directly by local authorities and monitored by Child Rights Departments.” Ibid, p.16

¹⁸² Interview with UNICEF staff

¹⁸³ “Despite persistent lobbying... the Ministry of Education ... has been very slow in reforming the closed institutions.” Final Report of the Supporting Social Welfare and Child Protection Reform project, 2010, p.10

that is, if full responsibility for other centres was given to local governments, as in Khujand.

Placing the responsibility for community-based prevention on the Child Rights Units, as advocated by the 2008 evaluation, would have permitted the expansion of prevention services throughout the whole country. The nature of the services that could have been provided this way would have been different, but the geographic coverage would have been broader and the costs might have been lower. The validity of the reason for rejecting this approach – that the social workers in Child Rights Units had to focus on children with disability – seems uncertain. The Evaluation Team has seen no data on the caseload of children with disabilities handled by the staff of Child Rights Units. There is anecdotal evidence that, in districts where there is no community-based prevention centre, the staff of Child Rights Units are handling cases of juvenile offenders given non-custodial sentences. It may be that strengthening the capacity of this network would have been a viable alternative to investing in community-based prevention centres, especially in districts where the level of offending is relatively low. During the second part of the project, the range of services the community-based prevention centres are expected to provide has been reduced to those provided by paraprofessional social workers.

In conclusion, there was no single, feasible and less expensive alternative to the decision to use the CAEs as the basis for taking to scale the model developed by the pilot projects prior to the project. However, a more balanced approach, including support for centres on the Khujand model in cities having a higher level of offending and support for developing the capacity of Child Rights Units/Departments in districts with a low level of offending, as well as support for centres based in CAEs where there was a genuine interest and commitment to the aims of the project, might have been more cost-effective.

Question 16. [Efficiency] Was the project implemented on time/according to the plan? Were the resources (financial and human) invested sufficient to have achieved the three key results?

The creation of a network of community-based prevention centres was only partially achieved, both in terms of the number of centres established, the number of centres operational at the end of the project, and the nature of the services they provide.¹⁸⁴ The achievements that were made in this respect were not reached within the planned time. The original logframe called for the existence of 32 centres by the end of 2013; this was reduced to 15 in the revised logframe adopted after the mid-term evaluation. Five centres were operational before the project began, the maximum number open at any given time was 14 (in 2011), and the number open at the end of the project was 8.¹⁸⁵

¹⁸⁴ See Part III, supra

¹⁸⁵ The Dushanbe Centre, opened in 2014, serves 4 districts.

The first and broadest key result – bringing the juvenile justice system into compliance with international standards – contained only two indicators in the original logframe. No concrete results were achieved with regard to one of them, law reform. The second was transformed into 7 indicators in the revised logframe. Most of them were not achieved or only partially achieved. The national plan of action for juvenile justice reform was not revised; the regulation of the CAEs has not been revised to allow the hiring of the kind of staff needed; and regulations concerning the placement of children in the special school have not been amended. Data collection by the Council of Justice has improved, but data collection by other actors, such as the police, Ministry of Justice and Commission on Child Rights, has not. An inter-ministerial working group on juvenile justice was established in 2012, but has not yet had a significant impact on juvenile justice reform. The two main exceptions are that training materials have been developed and a group of “master trainers” has been established for all sectors, and the Office of the Ombudsman is monitoring closed institutions for juveniles on a regular basis.

The third component or key result called for the ‘rolling out’ of early intervention services in schools in 32 districts, and offering of non-residential out-reach services by both Temporary Isolation Centres.¹⁸⁶ When the programme began some preventive services were being offered in a small number of secondary schools in Sino and Firdavsi districts. These services ceased when the community-based centres in these districts closed, and neither of the two Temporary Isolation Centres began to offer outreach services. (The Mid-Term Evaluation indicated that there was no reason for them to do so, since community-based centres were operational in the both cities where they were located.)

The Evaluation Team, as indicated above, has found no reason to consider lack of resources as one of the main reasons for any of the difficulties that had an adverse effect on implementation of the project. In the UNICEF office, the project was managed on a part-time basis by one international staff member (chief of the child protection team) and on a full-time basis by a national staff member. This was sufficient. In so far as the human resources available in implementing partners was concerned, there was a serious problem in that there are no professional social workers in Tajikistan.

Question 17. [Efficiency] To what extent did UNICEF’s work leverage, directly or indirectly, complementary resources from other partners that contributed significantly to achievement of key results?

UNICEF’s work on the project led the Ministry of Education to contribute the use of the physical infrastructure of CAEs, and the services of teachers employed in them. To the extent that the opening of community-based prevention centres in the CAEs was a success, this in-kind contribution of the Ministry was essential. The same observation

¹⁸⁶ This aim is not mentioned in the revised logframe.

applies to the in-kind support that the local authorities in Khujand provide to the community-based prevention centre located there.

UNICEF's support to the Commissioner for Human Rights led the Commissioner to assume full responsibility for financing the Child Rights Department before the project ended. Similarly, UNICEF advocacy and technical support to the Ministry of Justice let the Ministry to assume responsibility for funding the Juvenile Justice and Child Rights Department. Tajik National University pays the salary of the law professor who offers a course on child rights and juvenile justice, who prepared a textbook on the subject with UNICEF support. The Ministry of Interior pays the salary of the instructor who teaches juvenile justice at the police academy.

UNICEF financed renovation and equipping the child-friendly facilities in 4 courts, but the space used for this purpose were provided by the courts.

UNICEF financed the training of an interdisciplinary team of trainers who are on the staff of the various ministries and agencies involved in juvenile justice, and whose services as trainers represent a contribution by their employers.

Question 18. [Effectiveness] To what extent has UNICEF succeeded in raising issues and results arising from the project to a wider audience to inform the broader justice reform?

The Evaluation Team interviewed representatives of the European Union, UNDP, one bilateral donor and two international NGOs, all actively involved in support for Rule of Law projects or justice reform. All of them, except the ABA ROLI representative, were familiar with UNICEF's work on juvenile justice. None of them indicated that UNICEF's work had had a direct influence on their own activities, although one indicated that it had played a limited role in training organised by UNICEF as part of the project. The representative of the European Union saw some potential for orientating work now being planned so as to give some priority to juvenile justice issues. The representative of the Central Asian office of Penal Reform International also expressed interest in cooperating with UNICEF on advocacy concerning law reform, including issues concerning juvenile justice.

The only representative of the government interviewed who did not represent a counterpart was the Head of the Legal Department of the Presidency. He showed considerable knowledge of the project and, indeed, strong support for it.

Question 19. [Impact] To what extent has the project had an impact on boys and girls in contact with the law and at risk of offending?

Children at risk of offending and children in contact with law enforcement authorities or the justice system were benefitted, actually or potentially, in several different contexts. Unfortunately, in most of them, the data available do not allow the number of children concerned to be quantified.

The total caseload of the community-based prevention centres during the project was 549 children.¹⁸⁷ This compares to 268 or more children who reportedly attended the centres during the preceding years.¹⁸⁸ Thus, even with the difficulties encountered in expanding the network of centres, the number of children who attended centres during the project was, on average, some 50 to 60 per year more than during the earlier period.¹⁸⁹ Unfortunately, data on the caseload are not disaggregated by sex, age or status (at risk/offender).

Children who attended the centres, and their parents or caretakers, were surveyed as part of the mid-term and final evaluations. The 2011 survey covered 29 boys and girls who had attended centres in Sino and Khujand. Twenty-five of them said that interaction with the center staff and the attitude of the staff towards them changed their world outlook (they “found themselves” or “rediscovered the point of life”) and improved their relations with parents and friends. The 2014 survey covered 16 boys and girls who had attended centres in Khujand and Dushanbe reached similar conclusions, although it also found that the benefits were greater for children who attended the centre that offers a wider range of services. (A report of the findings of the second survey can be found in Appendix 6.)

The 2014 survey found that registration by the police had little or no impact, either positive or negative, on children. Since it was the first survey to cover the experience of children registered with the prevention police, it is not known whether this should be considered an improvement, deterioration, or continuation of the kind of treatment that prevailed prior to 2010.

Reliable data on the impact of the centres on offending and reoffending is not available, but anecdotal evidence from Khujand indicates that offending in the city has fallen by more than half since the centre re-opened in 2010.

In conclusion, the centres clearly had a positive impact on the children who attended them.

The project aimed to reduce the number of children deprived of liberty, and prevent the confinement of children who did not need to be deprived of liberty. The number of convicted juveniles given prison sentences during the project, although it has fallen since 2010, is higher than during preceding years.

Table 9

	2006	2007	2008	2009	2010	2011	2012	2013	2014 [#]
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¹⁸⁷ See Table 6, supra

¹⁸⁸ Data on the caseloads are not reliable because different figures have been reported on different occasions. Data reported by UNICEF in 2008 indicated that the caseload for 2005-2008 was 309 which, if correct, would increase the total caseload for 2005-2009 to 356.

¹⁸⁹ An average of 59 per year 2006-2009 and some 114 per year during the project.

[#] six months (Jan-June)

convicted	452	385	358	398	418	382	504	525	224
prison sentence	87	87	29	no data	179	118	113	126	67
percent	19%	23%	8%		43%	30%	22%	24%	30%

The number of accused juveniles detained before trial also has increased during the project, as indicated previously.¹⁹⁰

The number and percentage of cases “diverted to educational measures” also fell somewhat during the project, as shown by the table below.¹⁹¹

Table 10

	2006	2007	2008	2009	2010	2011	2012
Cases opened	656	643	525	589	530	545	625
diverted	75	100	72	91	41	94	68
percent	11%	16%	14%	15%	8%	17%	11%

The population of the Special School increased dramatically during 2011 and 2012, but the number admitted decreased sharply in 2013. In 2014 the population of the Special School was almost identical to the population the year before the project began. Thus, there was no appreciable benefit for children, as far as placement in this facility was concerned.

In theory it is possible that the number and percentage of accused juveniles detained and the number and percentage of convicted juveniles given prison sentences could be due to an increase in the commission of serious offences, or in the number of offences committed by juveniles who are repeat offenders. Data on reoffending is not available, but data from the TransMonee database indicates that the number of crimes of violence during the 2010 to 2012 was, on average, lower than during previous years.¹⁹² In conclusion, the data on available at this writing does not indicate any reduction in deprivation of liberty of juveniles either before or after trial.

The project was expected to have other benefits for the treatment of juvenile suspects, accused juveniles and juvenile prisoners. It is not possible to quantify, or even estimate, the number of juvenile suspects, accused juveniles and juvenile prisoners who suffer ill-treatment. The fact that in 2012, for the first time in memory, a police officer was convicted of torturing a juvenile is a positive sign. However, key informants did not report any significant improvement in the treatment of juvenile suspects during arrest or interrogation. They did indicate that treatment of juvenile prisoners improved

¹⁹⁰ See Table 4

¹⁹¹ 14% of cases opened were diverted 2006-2009, compared to 12% 2010-2012. The number of cases diverted decreased sharply in 2013 and 2014, as indicated above, but the data are not included in this Table because the number of cases prosecuted is unknown.

¹⁹² 27 crimes of violence on average 2006-2009, and 23 on average 2001-2012. www.transmonee.org, consulted 4 Nov. 2014

at one point during the project, but this was due to the appointment of a new director and proved to be temporary. Some positive changes were made in the range of services provided in the prison colony but, as indicated above, they also were temporary. No significant changes have been reported in the services provided or treatment of children in the Special School or pre-trial detention unit for juveniles.

In conclusion, the project did have a positive impact on children at risk and offenders who attended the community-based prevention centres, but no other tangible benefits for children can be identified, at this point.¹⁹³

Question 20. [Sustainability] In the case of JJAP implemented based in CAE, was the piloting successful in demonstrating to a broad audience that the policy options, namely the diversion of children to the community-based services is the most effective one to respond to the needs of boys and girls in conflict with the law? Has the experience been well documented and disseminated?

Many of the representatives of national counterparts interviewed do not fully appreciate the positive impact that the community-based prevention centres have had for the children who attended them, as evidenced by the 2011 survey of children and their parents. (The local authorities in Khujand are an exception.) In contrast, the dissemination of short videos on ill-treatment prepared by juveniles had a broader, positive impact on policy-makers.

The lack of data on offending disaggregated by district, the lack of reliable and disaggregated data on the caseloads of the prevention centres, and the apparent lack of official data on reoffending by juveniles, are an obstacle to dissemination of information on the impact of the community-based prevention component.

Question 21. [Sustainability] To what extent the knowledge brought by the trainings for judges, prosecutors, police officers, defence lawyers, staff of child rights units and CAE will remain in the Government system given high turnover of staff?

The Evaluation Team has not seen any reliable information on the extent of churn in different parts of the juvenile justice system. There is wide agreement that high staff turnover has limited the impact of training on the staff of the juvenile prison and staff of CAEs but, as indicated elsewhere, this seems to be symptom of the most important problem concerning the staffing of these institutions, not the cause.

At present, judges are appointed for 10 years, and many are transferred from one court to another two or three times during this time. This might pose a problem if many of them were to be transferred from courts having a significant number of juvenile cases to courts having a low number of such cases. Some of the training they have received is applicable to other cases involving children, and it is therefore likely that

¹⁹³ Recent developments may have beneficial impact that cannot yet be seen, but the Evaluation Team considers that its observations should be confined to impact that can be seen at the time of the evaluation.

that the training received would continue to be useful, even if the caseload of juvenile offenders is lower. Significant changes in the organisation of the judiciary are expected in the next few years, which may affect the policies regarding the rotation of judges.

At present, no prosecutors are assigned specifically to handle cases involving juvenile offenders. The question of trained prosecutors being reassigned to positions where their training would not be useful and the need to retrain their replacements therefore does not appear to be a major one.

It is difficult to see how this issue might apply to the training of defence lawyers.

In so far as the prevention police are concerned, the incorporation of juvenile justice into the training curriculum for police cadets, which has taken place, seems to be an appropriate solution.

Question 22. [Sustainability] Did the project establish a scaling up plan and was it feasible with the Government resources?

Taking to scale the community-based prevention centres established under a previous project was one of the main aims of the present project. Success in doing so was limited, as indicated in the reply to Question 2. Indeed, the scaling up plan was modified after the mid-term evaluation, and even the more modest goal was not achieved. There are two sides to the question of whether this goal was feasible, within the resources of the Ministry of Education. On one hand, if the Ministry had unlimited resources, it is very possible that the planned number of centres would be operational today. In reality, the educational system is very poorly financed,¹⁹⁴ and the Deputy Minister told the Evaluation Team that supporting the transformation of some Centres for Additional Education into centres for the prevention of offending and reoffending is not a priority for the Ministry.

On the other hand, by the end of the project the Ministry had not resolved administrative obstacles to the proper functioning of the community-based prevention centres. It showed no commitment to the reform of the two closed institutions directly under its control, nor to implementing the project component that called for the introduction of 'early intervention' programmes in schools in 32 districts. Indeed, the Ministry has shown no interest in addressing aspects of school system that contribute to offending by children.¹⁹⁵ This leads the Evaluation Team to conclude that, while the scaling up of this component may not have been feasible with the resources

¹⁹⁴ The 2012 National Strategy on Educational Development indicates that "Less than 10% of students go to schools, which have electricity, water supply system and sewage, organized meals and medical service." p.16 and "About the third of teachers do not have specialization on a teaching subject." p.13

¹⁹⁵ The mid-term evaluation stated: "... the survey [of children] also shows that, to a large extent, the services offered by the Centres serve to remedy problems arising from the negative and even discriminatory attitudes of teachers and lack of effective remedial education programmes in the school system. Ideally, this is a problem that should be remedied primarily by improving conditions and services offered by the school system, not by establishing a separate network of community-based centres to help children overcome problems caused by the failure of schools."

available within the Ministry of Education, this was not the only reason, and probably not the main reason, for limited implementation of this component by the Ministry. Indeed, as indicated in the reply to Question 15, financial and other problems made the Ministry an inappropriate choice as the main implementing partner for this component.

The project did not envisage taking to scale any other components, except training. Considerable progress has been made in developing the capacity to carry out training. More should be done in terms of the adoption of requirements concerning the training and skills needed for different positions within the juvenile justice system and institutions that contribute to prevention, and the incorporation of subjects related to child rights and juvenile justice into the curricula of professional training programmes.

Plans for taking to scale some other project achievements do not exist, but should be considered. One example would be to expand the staff of Child Rights Department with a view to establish a permanent presence in the main regions outside the capital. Another would be to develop a plan for taking to scale the child-friendly infrastructure in courts.¹⁹⁶

Question 23. [Sustainability] What are the major factors that influenced the achievement or non-achievement of sustainability of the project?

The project achievements that appear most sustainable at this point are:

- the training materials and group of “Master Trainers”
- the appointment of judges to handle cases involving children in 23 courts
- the child-friendly facilities in 4 courts
- the Juvenile Justice and Child Rights Department in the Ministry of Justice
- the Child Rights Department in the Office of the Ombudsman
- the use of new indicators concerning children by the Council of Justice
- the community-based prevention centre in Khujand

The intense training and advocacy efforts made during the second half of the project is one of the main factors that helped to make these achievements sustainable. The use of highly respected and qualified international experts for training and advocacy helped secure the political commitment that led to the creation of the two child right departments mentioned above, as well as the positive developments within the judicial system, i.e. the appointment of specific judges for children, the establishment of child-friendly facilities and improvement of data collection. The use of these international experts, together with the selection of qualified and highly motivated national experts, were key factors contributing to the development of training materials and the group of “Master Trainers”.

Other factors that helped to achieve these sustainable results and ensure a real commitment to the project on the part of some influential national counter-parts include

¹⁹⁶ Present plans are to establish such facilities in 3 more courts.

the persistence of the UNICEF country team, and the study visit to Switzerland. Participation in certain activities organized by the UNICEF regional office, including the Central Asian Forum on Juvenile Justice and the regional project on torture and ill-treatment in the context of juvenile justice (which included two regional meetings in which representatives of the Ombudsman Office participated) also was helpful. The personal interest and commitment of senior representatives of some of the governmental counterparts, such as the Council of Justice, also was a key factor. This factor also is largely responsible for the sustainability of the community-based prevention in Khujand. Finally, the experienced and devoted staff of the Centre for Rights of the Child, a national NGO, made many valuable contributions to implementation of the project.

The sustainability of the network of community-based prevention centres located in Centres for Additional Education appears to be uncertain. The main reasons – the poor state of the school system in general and the priority that the Ministry of Education understandably gives to improving it combined with the Ministry’s lack of interest and commitment to the prevention of offending – are explained in the reply to Question 22, above.

VI. Conclusions, emerging good practice and lessons

1. Data on the caseload of community-based prevention centres is incomplete and unreliable. This is due to the failure of both governmental agencies responsible for monitoring and coordinating to fulfil their responsibilities, and makes it impossible to properly evaluate this important component of the project. There is an important lesson to be learned from this experience.
2. The services provided by community-based centres for prevention of offending and re-offending were beneficial for children who received them. In the second largest city of Tajikistan, the centres contributed to a decrease in offending. This is a good practice.
3. The project did not reduce offending by juveniles on the national level, did not reduce the number of juveniles detained before trial, and did not reduce the number of prisoners in the juvenile prison colony or the number of children in the special school. Analysis of the reasons would require data not presently available, which limits the lessons that can be drawn.
4. The number of community-based centres opened was far fewer than the number planned, and several of those opened were later closed. The reasons that contributed to this include:
 - flaws in the project design
 - failure to amend the relevant legislation
 - ignorance or disinterest on the part of judges and prosecutors
 - poor motivation on the part of staff of some of the centres
 - neglect of responsibility to coordinate and monitor by the Commission on Child Rights and Ministry of Education

There are important lessons to be learned from this experience.

5. In response to the difficulties that affected implementation of this project component, UNICEF took the following measures:
 - closure of centres with a small caseload
 - reduction of the number of centres planned
 - increased training of centre staff
 - increased training of judges and prosecutors
 - limitation of the range of services provided

Most of these measures were appropriate. Limiting the range of services provided limits the contribution that the centres can be expected to make to prevention. Lack of data prevents the assessment of the impact of training on implementation of this component.

6. The single centre that was put under the management of the local authorities in 2010 enjoys their full support and continues to offer legal and psychological services in

addition to social work, vocational training and remedial education. This is a good practice.

7. There is some evidence that the training of judges and appointment of specific judges to handle cases involving children in 23 courts is having a positive impact on the way cases involving juvenile offenders (and child victims) are handled and resolved. This is a good practice.

8. There is some evidence that training had a greater impact on some professionals than others. Those whose practice was less affected include the employees of the Ministries of Interior and Education. This has been attributed to churn, but the underlying cause seems to be poor motivation and institutional culture that places a low value on child rights. The lesson to be drawn is that the training of public servants who work within an institutional culture that is not child-friendly is likely to have limited impact, without a commitment on a high level to changing the institutional culture.

9. The intensive use of highly respected and knowledgeable international experts for training and advocacy, combined with study visits and participation in relevant activities organised by the UNICEF Regional Office, and the selection and training of competent and highly motivated national experts, both governmental and non-governmental, contributed to the success of capacity-building, especially in the judiciary and office of the Ombudsman. This is a good practice.

10. Project funds were used to renovate three Centres for Additional Education selected as sites for prevention centres, and a unit for boys in the pre-trial detention facility in Dushanbe. Two of the centres were later closed, and juveniles in the renovated detention unit lack access to any educational or other constructive activities. The lesson to be drawn is that investments in material conditions should not be made unless there is a clear commitment to making other changes that are needed to ensure respect for the rights of the children concerned.

11. There may also be a lesson to be drawn about the risk involved in selecting, as the main implementing partner for important components of a project, ministries whose clear and sustained opposition to significant, related reforms demonstrates a poor understanding of, or lack of commitment to, the rights of children.

12. The Child Rights Department in the office of the Ombudsman, which has a staff member responsible for juvenile justice who monitors closed facilities in cooperation with NGOs, has had some positive impact. This is a promising practice, although much remains to be done to bring conditions, treatment and services in detention centres, the juvenile prison and other closed facilities into compliance with international standards. Support for the office of the Ombudsman (including its involvement in the regional project on torture and juvenile justice) and for the creation of this Department, is a good practice.

13. The Juvenile Justice and Child Rights Department in the Ministry of Justice has begun to facilitate inter-ministerial coordination on issues concerning juvenile justice, although much more needs to be done with regard to law reform, institutional reform, the development of protocols for inter-sectoral cooperation (e.g. on the role of psychologists in criminal investigations and proceedings involving child victims) and the collection and analysis of data.

14. The difficulties involved in law reform and the time needed to make major changes in legislation were underestimated. The lesson to be drawn is that the political factors that influence the feasibility of law reform vary greatly from one country to another, and should be analysed carefully during the preparation of a project to ensure that any result that depends on law reform is incorporated only after a realistic assessment of the risks and adoption of a realistic strategy for addressing them.

15. The approach to the prevention of offending and re-offending incorporated into the project design was valid to some extent, but it also was unbalanced and unrealistic. A balanced approach would have four components: school-based activities; centre-based services; outreach programmes not based in schools or centres, and effective rehabilitation services in residential facilities for offenders. The project included school-based activities, but did not give priority to them; the third and fourth kinds of activities were not included. Consequently, when difficulties arose in implementation of centre-based prevention component, they had a disproportionately large effect on the ultimate goals of the project. This is a lesson to be learned.

VII. Recommendations

1. Some of the project's achievements have positive benefits for children that go beyond juvenile justice. The training of judges and appointment of particular judges to handle all cases involving children, for example, has benefits for children who are victims of crime and children involved in cases involving family law. The child-friendly facilities established in four courts also benefits child victims. Most of the complaints about violations of the rights of children handled by the child rights department of the Ombudsman concern access to education or compliance with court orders in family law cases. UNICEF should seek funding in order to consolidate the achievements made during its work on juvenile justice, to fill in some of the gaps where achievements have been limited, and build on what has been accomplished while expanding its work to other important areas concerning access to justice for children. Consideration should be given to giving priority to making procedures for child victims of crime more child-friendly and effective.

2. UNICEF should continue to advocate for and support the improvement of collection and management of data concerning juvenile justice, child victims of crime and other issues concerning children's access to justice. These efforts should focus on data collection by the Ministry of Interior, the Office of the General Prosecutor and the Ministry of Justice's correctional department as well as the courts, and should include the introduction of new indicators, efforts to ensure the compatibility of indicators used by different sectors, and the creation of an intersectoral mechanism for consolidating, analysing and publishing data on children and justice. Timely access to reliable data necessary to assess the impact of activities concerning justice for children should be made a condition for future support for such activities.

3. An effort should be made, by UNICEF and its partners, to preserve the positive results of the investments the project made in community-based prevention, and consideration should be given to seeking funds to support a more balanced approach to prevention including:

- support for centre-based prevention on the Khujand model in cities or districts having the highest rate of offending, if the local authorities show serious interest in the prevention of offending;
- support for development of the capacity of Child Rights Units and Departments to assist children at risk and to support the social reintegration of juvenile offenders given alternative sentences or measures or returning to the community after confinement in a closed facility; and
- support for the addition of social work services to the services presently provided by CAEs, if the Ministry of Education takes the measures necessary to remove administrative obstacles to this initiative and ensure transparency and accountability.

4. UNICEF should undertake and support advocacy on the need to make schools more child-friendly, in particular by eliminating practices that discriminate against students who are poor, disadvantaged or have learning or behavioural problems, and

should support training and policy development if advocacy is successful. [High priority]

5. UNICEF should support inter-ministerial coordination on issues concerning juvenile justice and justice for children and provide any technical support needed for law reform, institutional reform, and the development of protocols and other tools for inter-sectoral cooperation in casework. [High priority]

6. UNICEF should undertake a needs assessment regarding the social work sector with a view to identifying a feasible approach to develop the capacity to train professional social workers, including social workers with training in child development and the skills necessary to assist children with special needs. [Secondary priority]

7. UNICEF should undertake or support a situation analysis/needs assessment should be undertaken of role of psychologists with regard to justice for children in Tajikistan, including their present role in ensuring access of children at risk, children with anti-social behaviour and behavioural disorders, juvenile offenders and child victims to the services they need, the capacity Tajik psychologists to assume the roles that their profession should play in with regard to justice for children, and any obstacles that affect their ability to do so. [Secondary priority]

8. There is presently a team of three criminal investigators based in Dushanbe specialised in criminal cases concerning children, who have responsibility for handling cases in the capital and supervision all other cases throughout the country. Consideration should be given by UNICEF to supporting the development of a plan to expand of this presence team to the provincial level, at least, if the Ministry of Interior recognises the need to strengthen specialisation in this area. [Secondary priority]

9. UNICEF should continue to support the Child Rights Department of the Ombudsman's Office in appropriate ways, such as access to information, networking with other specialised ombuds offices, technical assistance, outreach to children, the preparation of special studies on issues concerning children and justice, provided that the Department addresses frankly violations of the rights of children in the juvenile justice system, including those identified through monitoring of closed facilities. [High priority]

10. The persistence of violations of the rights of children in the juvenile justice system is due in part to children's lack of access to legal assistance for taking legal action to protect their rights. Consequently, UNICEF should support initiatives of other international actors to strengthen legal assistance programmes, and in particular to ensure that such efforts give appropriate attention to the special needs of children. [High priority]

